

APPROPRIATIONS

CHAPTER 1

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

BUDGET

AN ACT

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

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

§ 1. Appropriations for the Executive, Legislative and Judicial Departments of the State Government and for all of the Subdivisions Thereof, and for Public Schools.) The sums hereinafter named only, or so much thereof as may be necessary, are hereby appropriated out of any moneys in the state treasury, to the credit of each department, subdivision and public school hereinafter named and the balance necessary out of the general fund, except as hereinafter specifically provided, not otherwise appropriated, for the purpose specified in the following sections of this Act.

§ 2. The Period During Which the Appropriations Made Herein Shall Be Available.) Unless otherwise specifically stated, the appropriations herein made shall be available for the expenses to be incurred in and about the several purposes herein set out, during the fiscal period of two years, beginning July 1, 1963, and ending June 30, 1965, to wit:

§ 3. Appropriations.)

Subdivision 1.

Executive Office

Salary—governor	\$ 20,000.00
Assistants and clerkhire	43,715.00
Old age survivors insurance and social security	3,285.00
Postage, supplies, printing, furniture and fixtures	4,000.00

Miscellaneous	3,000.00
Travel expense	4,000.00
Governor's contingent	7,000.00
Total	\$ 85,000.00

Subdivision 1a.

Council of State Governments

Council of state governments	\$ 7,200.00
Total	\$ 7,200.00

Subdivision 2.

Lieutenant Governor

Salary—lieutenant governor	\$ 3,000.00
Old age survivor insurance and social security	424.00
Expenses to be allowed without filing any vouchers or statements for calendar years 1963-1964	600.00
Travel	1,000.00
Total	\$ 5,024.00

Subdivision 3.

Supreme Court

Salary—5 judges of supreme court	\$ 140,000.00
Clerk of supreme court	12,848.00
Deputy clerk	10,230.00
Judges' stenographers and secretaries	46,200.00
Miscellaneous	2,000.00
Postage, supplies, printing, furniture and fixtures	5,000.00
Travel expense	1,500.00
Social security	2,500.00
Retirement, supreme court judges	28,000.00
Emergency retirement fund (to be made available immediately on passage and approval	3,500.00
Old age and survivor insurance	1,850.00
Total	\$ 253,628.00

Subdivision 4.

Supreme Court Reporter and Law Librarian

Salary	\$ 12,000.00
Old age survivor insurance and social security	760.00
Postage, supplies, printing, furniture and fixtures	1,000.00
Miscellaneous	1,250.00
Purchase of books, periodicals, etc.	8,000.00
Purchase of out-of-state reports	2,500.00
Travel	500.00
Total	\$ 26,010.00

Subdivision 5.

Judges of District Court

Salary—16 judges, old age survivor insurance and social security	\$ 384,000.00
Expenses	20,000.00
Retirement of district judges	96,000.00
Emergency retirement fund (to be made available immediately on passage and approval)	4,300.00
Total	\$ 504,300.00

Subdivision 6.

Secretary of State

Salary—secretary of state	\$ 12,000.00
Salary—deputy	12,000.00
Clerkhire	49,640.00
Old age survivor insurance and social security	3,700.00
Postage, supplies, printing, furniture and fixtures	18,600.00
Legislative assistance	1,000.00
Miscellaneous	1,500.00
Travel expense	2,000.00
Records management	18,000.00
Total	\$ 118,440.00

Subdivision 6a.

Secretary of State—Public Printing

Code supplements	\$ 7,500.00
Legal notices	1,300.00
Session laws	17,000.00
Tabulation, abstracts, etc.	1,300.00
Publicity pamphlet, printing and postage ...	43,600.00
	<hr/>
Total	\$ 70,700.00

Subdivision 7.

State Auditor

Salary—state auditor	\$ 12,000.00
Salary—deputy	12,000.00
Clerkhire	156,365.00
Old age survivor insurance and social security	10,250.00
Postage, supplies, printing, furniture and fixtures	6,000.00
Miscellaneous	2,000.00
Travel expense	30,000.00
	<hr/>
Total	\$ 228,615.00

Subdivision 8.

State Treasurer

Salary—state treasurer	\$ 12,000.00
Salary—deputy	12,000.00
Clerkhire	85,000.00
Old age survivor insurance and social security	6,660.00
Postage, supplies, printing, furniture and fixtures	10,000.00
Miscellaneous	3,500.00
Bond premium	1,600.00
Travel expense	2,300.00
Oleomargarine stamps	4,000.00
	<hr/>
Total	\$ 137,060.00

Subdivision 9.

Commissioner of Insurance

Salary—commissioner	\$ 12,000.00
Salary—deputy	12,000.00
Clerkhire	66,100.00

Old age survivor insurance and social security	5,000.00
Claims reviewer	13,200.00
Postage, supplies, printing, furniture and fixtures	20,000.00
Miscellaneous	2,500.00
Investigation of unauthorized companies	2,500.00*
Travel expense	6,000.00*
Domestic and convention examiners	52,000.00
IBM expense	500.00
Total	\$ 191,800.00
	(183,300.00)*

Subdivision 9a.

State Fire Marshal (Commissioner of Insurance)

Salary—deputy fire marshals	\$ 25,950.00
Clerkhire	9,700.00
Old age survivor insurance and social security	1,900.00
Postage, supplies, printing, furniture and fixtures	5,000.00
Miscellaneous	1,200.00
Travel expense	12,000.00
Fees to fire chiefs	2,700.00
Arson hearing fund	3,000.00
Total	\$ 61,450.00

Subdivision 10.

Attorney General

Salary—attorney general	\$ 17,000.00
Salary—assistant attorneys general	150,000.00
Salary—oil and gas attorney	16,000.00
State bureau of criminal identification	48,525.00
Clerkhire	39,000.00
Old age survivor insurance and social security	12,500.00
Postage, supplies, printing, furniture and fixtures	7,000.00
Miscellaneous	5,000.00
Travel expense	7,000.00
Library	4,200.00
Miscellaneous court cases	7,500.00
Total	\$ 313,725.00

*Indicates line items vetoed by Governor. Total figure in parentheses indicates corrected total.

Subdivision 10a.

Attorney General—Licensing Department

Clerkhire and inspectors	\$ 80,735.00
Old age survivor insurance and social security	4,700.00
Postage, supplies, printing, furniture and fixtures	4,500.00
Travel expense	30,000.00
Miscellaneous	2,200.00
Hearing expense	7,500.00
Refunds	200.00
Total	\$ 129,835.00

Subdivision 11.

Department of Public Instruction

Salary—superintendent	\$ 14,400.00
Clerkhire and deputy	150,000.00
Old age survivor insurance and social security	10,000.00
Travel expense	12,000.00
Postage, supplies, printing, furniture and fixtures	48,740.00
Course of study and Bulletin No. 5 and high school and 8th grade examinations	25,000.00
State board of public school education	10,000.00
Teachers insurance and retirement	3,500.00
Teachers meetings	1,500.00
Miscellaneous	5,000.00
Total	\$ 280,140.00

Subdivision 12.

Department of Agriculture and Labor

Salary—commissioner	\$ 12,000.00
Salary—deputy (labor)	12,000.00
Salary—deputy (dairy)	14,000.00
Clerkhire	138,100.00
Old age survivor insurance and social security	9,950.00
Postage, supplies, printing, furniture and fixtures	26,900.00
Miscellaneous	4,540.00
Implement Labor Relations Act	20,000.00
Travel expense	47,700.00

Hearings	1,000.00
Auto exchange	1,700.00
Predatory animal and rodent control	101,500.00*
Stem rust control, nursery inspection, quar- antine enforcement and entomologist	16,000.00
Total	\$ 405,390.00 (303,890.00)*

Subdivision 12a.

Department of Agriculture and Labor
(Athletic Commission)

Salary—secretary	\$ 600.00
Commission expense	400.00
Total	\$ 1,000.00

Subdivision 13.

Public Service Commission

Salary—commissioners (3)	\$ 36,000.00
Clerkhire	321,700.00
Old age survivor insurance and social security	20,000.00
Postage, supplies, printing, furniture and fixtures	21,408.00
Miscellaneous	9,000.00
Travel expense, car exchange	54,800.00
Workmen's compensation	910.00
Handling Interstate Commerce Commis- sion cases, and cases before Federal Pow- er Commission, Federal Communication Commission, National Association of Railroad and Utilities Commissioners, and Midwest Association of Railroad and Utili- ties Commissioners	25,000.00
Research data	750.00
BTU gas analysis	650.00

Department of Weights and Measures

License plates, seals, field testing equipment, etc.	7,000.00
Refunds	1,125.00
Trucks and maintenance	15,000.00
Total	\$ 513,343.00

*Indicates line item vetoed by Governor. Total figure in parentheses indicates corrected total.

Subdivision 13a.

Public Service Commission—Utility Valuation

Services and expenses	\$ 40,000.00
Total	\$ 40,000.00

Subdivision 14.

Aeronautics Commission

Salary—director	\$ 14,400.00
Commissioners per diem and clerkhire	27,200.00
Old age survivor insurance and social security	2,400.00
Travel expense	7,500.00
Supplies, postage and sign fixtures	5,000.00
Fixed charges, maintenance and miscellaneous	8,500.00
Rent—office quarters	3,000.00
Total	\$ 68,000.00

Subdivision 15.

State Land Commissioner

Salary—commissioner	\$ 14,400.00
Salary—deputy	12,000.00*
Clerkhire and fieldmen's salaries	137,750.00
Old age survivor insurance and social security	9,450.00
Postage, supplies, printing, furniture and fixtures	9,500.00
Miscellaneous	1,000.00
Travel expense	17,500.00
Leasing	2,500.00
Premium on bonds	800.00
Surveying	500.00
Contingent	15,000.00
Total	\$ 220,400.00 (208,400.00)*

Subdivision 16.

State Tax Commissioner

Salary—tax commissioner	\$ 12,000.00
Salary—deputy	12,000.00
Salary—research director in charge of collections and withholding	28,000.00

*Indicates line item vetoed by Governor. Total figure in parentheses indicates corrected total.

Clerkhire	726,366.00
Three field auditors	43,200.00
Old age survivor insurance and social security	45,508.00
Postage, supplies, printing, furniture and fixtures	221,385.00
Miscellaneous	16,500.00
Travel expense—field auditors	109,750.00
Revenue stamps	20,000.00
Travel expense—department general	2,000.00
Total	\$1,236,709.00

Subdivision 17.

Board of Administration

Salary—chairman and members	\$ 42,825.00
Other employees	400,700.00
Old age survivor insurance and social security	25,800.00
Capitol maintenance	273,000.00
Paint, repairs and lights	5,600.00
Postage, supplies, printing, furniture and fixtures	9,960.00
Travel expense	6,400.00
Radio broadcasting	174,812.00
Old age survivor insurance and social security	4,450.00
Equipment (includes car for governor)	6,000.00
Reconditioning voting machines in house and senate and service contract	12,000.00
Institutional collections	32,280.00
Sidewalks and concrete works	5,000.00
Capitol roof repair	10,000.00
Electrical wiring	10,000.00
Fort Lincoln rental	6,000.00
Special assessments—city of Bismarck	3,395.38
Total	\$1,028,222.38

Subdivision 18.

State Seed Department

Seed analysts	\$ 33,000.00
Travel expense	700.00
Postage, supplies, printing, furniture and fixtures	5,000.00
Miscellaneous	500.00

Old age and survivor insurance and social security	1,750.00
Total	\$ 40,950.00

Subdivision 19.

State Industrial Commission

Clerkhire	\$ 7,200.00
Old age survivor insurance and social security	450.00
Postage, supplies, printing, furniture and fixtures	250.00
Miscellaneous	100.00
Contribution to Interstate Oil Compact Commission	2,500.00
Travel	3,000.00
Total	\$ 13,500.00

Subdivision 20.

Adjutant General

Salary—adjutant general and assistants	\$ 40,681.00
Clerkhire	56,755.00
Old age survivor insurance and social security	8,350.00
Postage, supplies, printing, furniture and fixtures	2,300.00
Miscellaneous	800.00
Travel expense	800.00
Special assessments—city of Bismarck	10,867.11
Inauguration expenses	1,000.00
Total	\$ 121,553.11

Subdivision 21.

Legislative Research Committee

Committee operation and research and old age survivor insurance	\$ 85,400.00
Statutory revision	28,500.00
Expenses, additional legislators on subcommittees	35,000.00
Preparation and publication of session laws and statutes	6,000.00
Special study expense	12,000.00
Total	\$ 166,900.00

Subdivision 22.

39th Legislative Assembly

Budget request for 39th	\$ 78,000.00
Per diem—employees	100,000.00
Per diem—employees of 38th Legislative Assembly (to be made available immedi- ately on passage and approval)	8,175.00
Printing	86,000.00
Miscellaneous	12,000.00
Expense—members	194,400.00
Expense—members of 38th Legislative As- sembly (to be made available immedi- ately on passage and approval)	32,200.00
Janitor service and engineering	3,750.00
Total	\$ 514,525.00

Subdivision 23.

Pardon Board

Salary—secretary	\$ 600.00
Salary—members and expense	1,000.00
Investigations	1,000.00

State Parole Officer:

Salary—parole officer	14,340.00
Assistants and clerkhire	72,054.00
Old age survivor insurance and social security	5,000.00
Workmen's compensation	400.00
Telephone and postage	2,500.00
Supplies and equipment	2,000.00
State parole board—per diem	3,000.00
Travel and other expense	39,000.00
Total	\$ 140,894.00

Subdivision 24.

State Budget Board

Per diem and other expenses	\$ 13,000.00
Total	\$ 13,000.00

Subdivision 25.

Reward for Apprehension of Criminals

Reward for apprehension of criminals	\$	1,000.00
Total	\$	1,000.00

Subdivision 26.

State Examiner

Salary—state examiner	\$	16,800.00
Clerkhire		357,200.00
Old age survivor insurance and social security		21,800.00
Postage, supplies, printing, furniture and fixtures		8,500.00
Miscellaneous		3,500.00
Travel expense		90,000.00
State banking board		1,500.00
State credit union board		600.00
Legal fees and investigation costs		1,000.00
Closed bank fund		3,500.00
Audit of state auditor		3,000.00
Total	\$	507,400.00

Subdivision 27.

State Securities Commissioner

Salary—commissioner	\$	20,000.00
Deputy		15,000.00
Clerkhire		30,400.00
Old age survivor insurance and social security		3,700.00
Oil and gas broker		400.00
Miscellaneous		7,200.00
Furniture and office equipment		1,000.00
Travel—in state		2,000.00
Travel—out of state		2,000.00
Total	\$	81,700.00

Subdivision 28.

State Board of Higher Education

Salary—commissioner	\$	31,000.00
Salary—employees		45,670.00
Old age survivor insurance and social security		4,300.00

Postage, supplies, printing, furniture and fixtures	4,000.00
Miscellaneous	2,200.00
Travel expense	5,000.00
Members—per diem	7,000.00
Members—travel	7,000.00
Total	\$ 106,170.00

Subdivision 29.

National Defense Student Loan Program

National defense student loan program	\$ 81,885.00
Total	\$ 81,885.00

Subdivision 30.

Board of Higher Education
Reciprocal Agreement

Payment of reciprocal agreements with other states' institutions of higher learning for higher education of not more than six North Dakota veterinary medicine and surgery students per year*	\$ 21,600.00
Total	\$ 21,600.00

*At the time that payments are made to or on behalf of a veterinary medicine and surgery student, the board of higher education shall obtain a note signed by each such student in an amount equal to the amount of such payment. Such note shall be so conditioned as to be void if such student shall, upon graduation, return to North Dakota and engage in the practice of veterinary medicine and surgery for a period of at least two years.

Subdivision 31.

Department of Accounts and Purchases

Salary—director and clerkhire	\$ 189,000.00
Old age survivor insurance and social security	12,420.00
Postage, supplies, printing, and miscellaneous	16,000.00
Travel expense	4,800.00
Technical assistance	1,100.00
Total	\$ 223,320.00

Subdivision 32.

Board of Higher Education
State Aid to Junior Colleges

Junior college payments	\$ 543,000.00
Total	<u>\$ 543,000.00</u>

Subdivision 33.

Civil Air Patrol

Communication acquisition and maintenance	\$ 20,560.00
Vehicle maintenance	3,800.00
Aircraft maintenance and hangaring	9,440.00
Total	<u>\$ 33,800.00</u>

Subdivision 34.

State Historical Society and State Parks Committee

State Historical Society:

Salary—superintendent	\$ 15,000.00
Clerkhire	54,750.00
Social security and old age survivor insurance	4,000.00
Postage, supplies, printing, furniture and fixtures	11,500.00
Miscellaneous	1,600.00
Travel expense	1,900.00
Museum purchases—preparation of exhibits	6,000.00
Books, periodicals and binding	2,500.00
Historical and archaeological field work	3,000.00
Microfilm equipment	5,000.00
Subtotal	<u>\$ 105,250.00</u>

State Parks Committee:

Salary—director	\$ 15,000.00
Clerical services, social security and old age survivor insurance	15,000.00
Office supplies	1,000.00
Miscellaneous	1,000.00
Travel expense	2,500.00
Maintenance and operation—North Dakota parks	80,000.00
International Peace Garden	20,000.00

Development and maintenance historic sites and signs	15,000.00
Pembina State Park	5,000.00
Whitestone Hill State Park	5,000.00
Fort Union—Fort Buford historic sites	11,000.00
Purchase of park maintenance equipment ...	9,000.00
Camp Hancock historic site	2,500.00
Special assessments—street lighting—city of Bismarck	1,488.62
Gardener at International Peace Garden	5,400.00
Fort Abercrombie State Park	10,000.00
Garrison Reservoir State Park	20,000.00
Fort Totten	15,000.00
Camping area Metigoshe State Park	15,000.00
Turtle River State Park lodge and cabins ...	17,000.00
Maintenance and operation Turtle River State Park	2,500.00
Facilities purchase	10,000.00
Salary for industrial school boys during the summer on state parks projects	5,000.00
Subtotal	\$ 283,388.62
Total	\$ 388,638.62

Subdivision 35.

Coal Mine Inspector

Salary—inspector	\$ 11,750.00
Clerkhire	5,884.00
Old age survivor insurance and social security	1,000.00
Postage, supplies, printing, furniture and fixtures	1,500.00
Miscellaneous	380.00
Travel and auto expense	3,000.00
Examining board	175.00
Auditing board	300.00
Coal mine safety fund—services	1,000.00
Coal mine safety fund—expenses	1,000.00
Total	\$ 25,989.00

Subdivision 36.

Emergency Commission—State Contingency Fund

There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of \$500,000.00, or so much thereof as may be necessary to provide funds for

the state emergency commission, including the payment of per diem and expenses to the legislative members of the commission, and which fund shall be known as the state contingency fund and be for the purposes authorized under chapter 54-16 of the North Dakota Century Code, and for civil defense, for the biennium beginning July 1, 1963 and ending June 30, 1965.

Subdivision 37.

Veterinary Medical Examiners

Salary, clerkhire and miscellaneous expenses	\$ 2,700.00
Total	\$ 2,700.00

Subdivision 38.

Miscellaneous Refunds

Miscellaneous refunds for money erroneously paid into or credited to the general fund	\$ 30,000.00
Total	\$ 30,000.00

Subdivision 39.

Fugitives from Justice—Arrest and Return

Arrest and return of fugitives from justice....	\$ 8,000.00
Total	\$ 8,000.00

Subdivision 40.

Boys' and Girls' Club Work—County Fairs

Premiums for boys and girls at county fairs	\$ 21,200.00
Total	\$ 21,200.00

Subdivision 41.

Burial and Release of Institutional Inmates

For inquest and burial of penal inmates	\$ 500.00
Total	\$ 500.00

Subdivision 42.

State Laboratories Department

Salary—director	\$ 18,000.00*
Clerkhire	406,850.00
Old age survivor insurance and social security	32,000.00
Postage, supplies, printing, furniture, fixtures, dray and express	59,000.00
Miscellaneous and lab car	10,000.00
Travel expense	60,000.00
Samples	2,000.00
Rent	7,920.00
Telephone and telegraph	2,500.00
Ice, gas and electricity	2,000.00
Library	1,500.00
Workmen's compensation	1,750.00
Cost of auditing	2,500.00
Refunds	500.00
Total	\$ 606,520.00
	(588,520.00) *

Subdivision 43.

North Dakota Economic Development Commission

Salaries	\$ 91,000.00
Old age survivor insurance and social security	5,300.00
Postage, supplies, printing, furniture and fixtures	14,000.00
Miscellaneous	4,000.00
Travel expense	15,000.00
Commissioner's travel	6,500.00
Books and magazines	500.00
Promotion: research projects and industrial development	60,000.00
Total	\$ 196,300.00

Subdivision 44.

Soil Conservation Committee and Districts

Salaries	\$ 24,600.00
Old age survivor insurance and social security	1,400.00
Office supplies, postage, printing, stationery and photography	7,000.00
Furniture and fixtures	750.00

*Indicates line item vetoed by Governor. Total figure in parentheses indicates corrected total.

Election expense	1,000.00
Publication fees	700.00
Conservation education program	3,500.00
Travel expense	30,000.00
Special projects and national plowing contest to be held in N. Dak. in 1964	7,500.00
Total	\$ 76,450.00

Subdivision 45.

State Geological Survey

Salaries and clerkhire	\$ 321,650.00
Old age survivor insurance and social security	18,106.00
Postage, supplies, printing	45,000.00
Miscellaneous, travel, cars and apparatus	55,500.00
Office Rent	1,700.00
Total	\$ 441,956.00

Subdivision 46.

North Dakota Firemen's Association

Promoting fire schools and other activities....	\$ 8,000.00
Total	\$ 8,000.00

Subdivision 47.

North Dakota Indian Affairs Commission

To carry out provisions of chapter 54-36 of the North Dakota Century Code	\$ 15,000.00
Total	\$ 15,000.00

Subdivision 48.

Subdivision 48a.

State Highway Patrol

Salary—superintendent	\$ 16,200.00
Salary—assistant superintendent	13,600.00
Expenses*	112,320.00
Salary—not more than 76 officers	862,110.00
Clerks, bookkeepers and IBM	41,800.00
Postage, supplies, printing, furniture and fixtures	19,000.00

Miscellaneous	24,500.00
Travel expense	8,460.00
New equipment	37,153.00
Training school	8,000.00
Public information	10,000.00
Motor vehicle operation and maintenance ...	401,000.00
Social security and retirement	39,800.00
Old age survivor insurance	2,190.00
Subtotal	<u>\$1,596,133.00</u>

Subdivision 48b.

State Highway Patrol—Public Safety Division

Salaries and expenses	\$ 32,880.00
Postage, printing and supplies	2,500.00
Motor vehicle purchase, operation and maintenance	10,200.00
Travel	1,000.00
Retirement, social security and old age and survivor insurance	864.00
Subtotal	<u>\$ 47,444.00</u>
Total	<u>\$1,643,577.00</u>

*Each member of the state highway patrol shall receive from the line item "Expenses" above, the sum of sixty dollars per month in lieu of all expense and reimbursement for meals while in a travel status within the state of North Dakota or while at their respective home stations. Such sum shall be paid without the presentation of receipts or other memoranda at the same time and in the same manner as salaries of members of the highway patrol are paid. The moneys appropriated in subdivision 'a' of subdivision 48 are hereby appropriated out of the general fund. The moneys appropriated in subdivision 'b' of subdivision 48 are hereby appropriated out of the motor vehicle registration fund.

Subdivision 49.

State Commission on Alcoholism

Salary—director	\$ 15,600.00
Salary—assistant director	14,850.00
Clerkhire	7,760.00
Old age and survivor insurance and social security	2,200.00
Postage, supplies, printing, furniture, fix- tures, films, books and telephone	7,000.00

Travel	8,500.00
Summer school on alcohol studies at University of North Dakota	4,000.00
Program planning and miscellaneous	800.00
Revolving fund	600.00
Total	\$ 61,310.00

Subdivision 50.

Delegates to National Convention

Delegates to national convention (not to exceed \$200.00 per delegate)	\$ 6,000.00
Total	\$ 6,000.00

Subdivision 51.

Expenses—presidential electors	\$ 400.00
Total	\$ 400.00
Grand total	\$ 12,569,729.11 (12,429,729.11) *

§ 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 hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval on such items as are designated to be made available immediately on passage and approval.

Approved in part March 20, 1963.

*Total figure in parentheses indicates corrected total.

CHAPTER 2

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

SCHOOL FOR THE BLIND

AN ACT

Making an appropriation for the general maintenance, improvements and repairs, equipment, and miscellaneous items of the school for the blind at Grand Forks, North Dakota, and declaring an emergency.

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

§ 1. Appropriation for the State School for the Blind.) The sums hereafter named, derived from interest and income, and so much additional as may be needed, are hereby appropriated out of the state treasury, not otherwise appropriated, or so much thereof as may be necessary to pay the general maintenance, improvements and repairs, equipment and miscellaneous items of the school for the blind at Grand Forks, North Dakota, for the biennium beginning July 1, 1963, and ending June 30, 1965, to wit:

Salaries, wages, teachers retirement fund, old age survivor insurance and social security	\$ 170,400.00
Operating expense	48,100.00
Equipment	4,000.00
Improvements and repairs	3,000.00
Miscellaneous items	1,800.00
Weekly medical visitation to institution	1,500.00
New bus	5,800.00
Special assessments—county (to be made available immediately on passage)	2,550.52
Special assessments—city (to be made avail- able immediately on passage)	24,274.61
New station wagon	2,000.00
 Total	 \$ 263,425.13

§ 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 on such items as are designated to be made available immediately on passage.

Approved March 21, 1963.

CHAPTER 3

S. B. No. 3

(Committee on Appropriations)

SCHOOL FOR 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, and declaring an emergency.

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

§ 1. Appropriation for the State School for the Deaf.) The sums hereafter named, derived from interest and income, and so much additional as may be needed, are hereby appropriated out of the state treasury, not otherwise appropriated, or so much thereof as may be necessary to pay the general maintenance, improvements and repairs, and equipment, for the school for the deaf at Devils Lake, North Dakota, for the biennium beginning July 1, 1963, and ending June 30, 1965, to wit:

Salaries, wages, teachers retirement, old age survivor insurance and social security	\$ 427,260.00
Operating expense	131,000.00
Improvements and repairs	19,500.00
Equipment	27,600.00
Sidewalks, curbs, roads and landscaping	5,000.00
Staff rooms and equipment (to be made available immediately on passage)	23,000.00
Total	<u>\$ 633,360.00</u>

§ 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 on such items as are designated to be made available immediately on passage.

Approved March 6, 1963.

CHAPTER 4

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

GRAFTON STATE SCHOOL

AN ACT

Making an appropriation for the general maintenance, improvements and repairs, equipment, miscellaneous items, new buildings and special projects for the Grafton state school at Grafton, North Dakota.

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

§ 1. Appropriation for the Grafton State School.) The sums hereafter named, derived from income, and so much additional as may be needed, are hereby appropriated out of the general fund in the state treasury, not otherwise appropriated, or so much thereof as may be necessary to pay the general maintenance, improvements and repairs, equipment, miscellaneous items, new building, and special projects for the Grafton state school at Grafton, North Dakota, for the bien-nium beginning July 1, 1963, and ending June 30, 1965, to wit:

Salaries, wages, teachers retirement, old age survivor insurance and social security	\$2,841,380.00
Additional appropriation to accomplish 40 hour week	130,000.00
Operating expense	898,000.00
Land rental	17,600.00
Improvements and repairs	55,000.00
Equipment	57,000.00

New buildings and special projects:

1. Laundry building and equipment (including cost of moving present equipment)	200,000.00
2. Shop building	3,500.00
3. Slaughter house and equipment	30,000.00
4. Repair roof of refectory building	5,000.00

Total	<u>\$4,237,480.00</u>
-------------	-----------------------

Approved March 21, 1963.

CHAPTER 5

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

TUBERCULOSIS SANATORIUM

AN ACT

Making an appropriation for the general maintenance, improvements and repairs, and equipment for the tuberculosis sanatorium at San Haven, North Dakota.

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

§ 1. Appropriation for the State Tuberculosis Sanatorium.)

The sums hereafter named, derived from income, and so much additional as may be needed, are hereby appropriated out of the state treasury, not otherwise appropriated, or so much thereof as may be necessary to pay the general maintenance, improvements and repairs, and equipment for the tuberculosis sanatorium at San Haven, North Dakota, for the biennium beginning July 1, 1963, and ending June 30, 1965, to wit:

Salaries, wages, social security, and old age	
survivor insurance	\$1,212,000.00
Additional appropriation to accomplish 40	
hour week	53,568.00
Operating expense	453,200.00
Improvements and repairs	25,000.00
Equipment	15,000.00
Special project:	
Cistern	16,000.00
Miscellaneous emergency	30,000.00
Total	<u>\$1,804,768.00</u>

Approved March 21, 1963.

CHAPTER 6

S. B. No. 6

(Committee on Appropriations)

STATE HOSPITAL

AN ACT

Making an appropriation for the general maintenance, improvements and repairs, equipment, miscellaneous items, new buildings and special projects for the state hospital at Jamestown, North Dakota.

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

§ 1. Appropriation for the State Hospital.) The sums hereafter named, derived from interest and income, and so much additional as may be needed, are hereby appropriated, out of the state treasury, not otherwise appropriated, or so much thereof as may be necessary to pay the general maintenance, improvements and repairs, equipment, miscellaneous items, new buildings, and special projects for the state hospital at Jamestown, North Dakota, for the biennium beginning July 1, 1963, and ending June 30, 1965, to wit:

Salaries	\$4,532,000.00
Additional aids, to accomplish 40 hour week	110,000.00
Old age survivor insurance and social security	250,000.00
Pensions	10,402.00
Operating expense	1,685,000.00
Purchase 150 cattle	25,000.00
Improvements and repairs	500,000.00
Nursing school:	
Salaries	82,400.00
Operating expense	6,000.00
Tranquilizing drugs	150,000.00
Foster care program	30,000.00
Staff development.....	10,000.00
Quarter house	18,000.00
Special assessments to city of Jamestown	662.62
New building:	
Recreational housing	5,000.00
Utility building, including architect's fee and equipment (providing funds are available and subject to the approval of the budget board)	450,000.00
Total	\$7,864,464.62

Approved March 21, 1963.

CHAPTER 7

S. B. No. 7

(Committee on Appropriations)

STATE INDUSTRIAL SCHOOL

AN ACT

Making an appropriation for the general maintenance, improvements and repairs, equipment, miscellaneous, and special projects for the state industrial school at Mandan, North Dakota, and declaring an emergency.

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

§ 1. Appropriation for the State Industrial School.) The sums hereafter named, derived from interest and income, and so much additional as may be needed, are hereby appropriated out of the state treasury, not otherwise appropriated, or so much thereof as may be necessary to pay the general maintenance, improvements and repairs, equipment, miscellaneous, and special projects for the state industrial school at Mandan, North Dakota, for the biennium beginning July 1, 1963, and ending June 30, 1965, to wit:

Salaries, wages, teachers retirement, social security and old age survivor insurance	\$ 606,800.00
Operating expense	323,830.00
Improvements and repairs	26,510.00
Equipment	40,000.00
Miscellaneous	8,600.00
Special projects:	
Additional appropriation for replacement of Brown Cottage (to be made available immediately on passage)	9,000.00
Additional to complete chapel	15,000.00
Sidewalks	1,000.00
Total	\$1,030,740.00

§ 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 on such item as is designated to be made available immediately on passage.

Approved March 5, 1963.

CHAPTER 8

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

STATE PENITENTIARY

AN ACT

Making an appropriation for the general maintenance, improvements and repairs, equipment, miscellaneous, and special projects, of the state penitentiary.

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

§ 1. Appropriation for the State Penitentiary.) The sums hereafter named, derived from income, and so much additional as may be needed, are hereby appropriated out of the state treasury, not otherwise appropriated, or so much thereof as may be necessary to pay the general maintenance, improvements and repairs, equipment, miscellaneous, and special projects, of the state penitentiary, for the biennium beginning July 1, 1963, and ending June 30, 1965, to wit:

Salaries, wages, retirement pay, social security, old age and survivor insurance	\$ 771,830.00
Maintenance expense	381,000.00
Dental and optical care	10,000.00
Improvements and repairs	25,000.00
Equipment	20,000.00
Miscellaneous (rent of land)	6,200.00
Book salvage industry	25,000.00
Special assessments—city of Bismarck	5,690.66
Special projects:	
1. Rebuild and remodel 4 wall towers	10,000.00
2. Demolish old cell house and build high chain link fence	20,000.00
Total	<u>\$1,274,720.66</u>

Approved March 21, 1963.

CHAPTER 9

S. B. No. 9

(Committee on Appropriations)

NORTH DAKOTA STATE FARM

AN ACT

Making an appropriation for the general maintenance and operation of the North Dakota state farm, Bismarck, 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 \$150,080.00, or so much thereof as may be necessary to pay the general maintenance and operation of the North Dakota state farm, Bismarck, North Dakota, for the biennium beginning July 1, 1963, and ending June 30, 1965.

Approved February 21, 1963.

CHAPTER 10

S. B. No. 10

(Committee on Appropriations)

TAG AND SIGN PLANT

AN ACT

Making an appropriation for the general maintenance and operation of the tag and sign plant at the state penitentiary.

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

§ 1. Appropriation.) There is hereby appropriated the sum of \$450,000.00 out of the general fund, in the state treasury, or so much thereof as may be necessary to pay the general maintenance and operation of the tag and sign plant at the state penitentiary for the biennium beginning July 1, 1963, and ending June 30, 1965.

Approved March 18, 1963.

CHAPTER 11

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

NORTH DAKOTA TWINE AND CORDAGE PLANT

AN ACT

Making an appropriation for the general maintenance, improvements and repairs, equipment and miscellaneous expenses of the North Dakota twine and cordage plant at the state penitentiary.

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

§ 1. Appropriation.) There is hereby appropriated out of any moneys in the state treasury in the general fund, the sum of \$1,008,722.00, or so much thereof as may be necessary to pay the general maintenance, improvements and repairs, equipment and miscellaneous expenses of the North Dakota twine and cordage plant at the state penitentiary, for the biennium beginning July 1, 1963, and ending June 30, 1965, to wit:

Salaries, wages, social security, old age and survivor insurance	\$ 130,122.00
Operating expense	823,600.00
Improvements and repairs	6,000.00
Equipment	26,000.00
Miscellaneous	23,000.00
 Total	 \$1,008,722.00

Approved March 21, 1963.

CHAPTER 12

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

STATE AUDITOR—GASOLINE TAX DIVISION

AN ACT

Making an appropriation for the purpose of defraying the expenses of the maintenance and operation of the gasoline tax division in the office of the state auditor.

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

§ 1. Appropriation.) There is hereby appropriated out of the motor vehicle fuel taxes collected under section 57-54-08 of the North Dakota Century Code, not otherwise appropriated,

the sum of \$267,259.00, or so much thereof as may be necessary, to be set aside in the state treasury, for the purpose of defraying the expenses of the maintenance and operation of the gasoline tax division in the office of the state auditor, for the biennium beginning July 1, 1963, and ending June 30, 1965, to wit:

Clerkhire	\$ 182,159.00
Social security, old age and survivor insurance	10,600.00
Postage, supplies, printing, furniture and fixtures	25,000.00
Miscellaneous	3,500.00
Emergency	20,000.00
Travel expense	26,000.00
 Total	 \$ 267,259.00

Approved February 22, 1963.

CHAPTER 13

S. B. No. 13

(Committee on Appropriations)

STATE HAIL INSURANCE DEPARTMENT

AN ACT

Making an appropriation for the operation and maintenance of the state hail insurance department.

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

§ 1. Appropriation.) There is hereby appropriated out of the state hail insurance fund in the state treasury, the sum of \$529,350.00, or so much thereof as may be necessary for the operation, maintenance and expenses of the state hail insurance department of the state of North Dakota, for the biennium beginning July 1, 1963, and ending June 30, 1965, to wit:

Salary—manager	\$ 13,000.00
Clerkhire	103,000.00
Social security, old age and survivor insurance	16,000.00
Salary—inspectors and adjusters	46,350.00
Travel—inspectors and adjusters	50,000.00
Travel—office	10,000.00

Postage, supplies, printing, furniture and fixtures	25,000.00
Listing fees	150,000.00
Annual audit	7,000.00
Advertising	2,500.00
Legal publications	100.00
Miscellaneous	4,000.00
Emergency	100,000.00
Assistant attorney general salary	2,400.00
 Total	 \$ 529,350.00

Approved February 22, 1963.

CHAPTER 14

S. B. No. 14

(Committee on Appropriations)

STATE FIRE AND TORNADO FUND

AN ACT

Making an appropriation for the purpose of operating and maintaining the state fire and tornado fund.

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

§ 1. Appropriation.) There is hereby appropriated out of the moneys in the state fire and tornado fund in the state treasury, the sum of \$114,930.00, or so much thereof as may be necessary to maintain and operate the state fire and tornado fund of the state of North Dakota, for the biennium beginning July 1, 1963, and ending June 30, 1965, to wit:

Salaries	\$ 29,770.00
Social security, old age and survivor insurance	1,830.00
Postage, supplies, printing, furniture and fixtures	5,000.00
Miscellaneous	4,500.00
Risk inspection and travel	17,500.00
Premium refunds—fire and extended coverage	15,000.00
Adjusting expense	39,150.00
Assistant attorney general salary	1,680.00
Examination fee	500.00
 Total	 \$ 114,930.00

Approved February 22, 1963.

CHAPTER 15

S. B. No. 15

(Committee on Appropriations)

STATE BONDING FUND

AN ACT

Making an appropriation for the purpose of operating and maintaining the state bonding fund.

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

§ 1. Appropriation.) There is hereby appropriated out of the moneys in the state bonding fund in the state treasury, the sum of \$24,080.00, or so much thereof as may be necessary to maintain and operate the state bonding fund of the state of North Dakota, for the biennium beginning July 1, 1963, and ending June 30, 1965, to wit:

Salaries	\$ 13,050.00
Social security, old age and survivor insurance	850.00
Postage, supplies, printing, furniture and fixtures	4,000.00
Miscellaneous	500.00
Investigation and travel	3,000.00
Emergency	500.00
Assistant attorney general salary	1,680.00
Examination fee	500.00
Total	<u>\$ 24,080.00</u>

Approved February 22, 1963.

CHAPTER 16

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

VOCATIONAL EDUCATION

AN ACT

Making an appropriation for vocational agriculture, vocational home economics, business education, trade and industrial education.

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 general fund in the state treasury, not otherwise appropriated, the sum of \$374,000.00, or so much thereof as may be necessary for vocational agriculture, vocational home economics, business education, trade and industrial education, as provided for in section 15-40-04 of the North Dakota Century Code, for the biennium beginning July 1, 1963, and ending June 30, 1965, to wit:

Vocational agriculture	\$ 144,000.00
Vocational home economics	180,000.00
Business education	20,000.00
Trade and industrial education	30,000.00
	<hr/>
Total	\$ 374,000.00

Approved March 21, 1963.

CHAPTER 17

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

FOUNDATION PROGRAM PAYMENTS—STATE AID—
ADMINISTRATION

AN ACT

Making an appropriation for the purpose of paying the administrative expenses and the state foundation program payments, the administrative expense and the teaching preparation scholarships of the teacher preparation scholarship plan, and the two agricultural schools on the basis of enrollment.

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 general fund, not otherwise appropriated, the following sums for the following purposes, for the biennium beginning July 1, 1963, and ending June 30, 1965, to wit:

**Foundation Program Payments—Administration
and State Aid**

Salary—director and clerkhire	\$	34,680.00
Social security, old age and survivor insurance		2,000.00
Postage, supplies, printing, furniture and fixtures		7,500.00
Travel expense		2,000.00
Emergency		400,000.00
Foundation program payments	25,200,000.00	
Division guidance and testing services		30,000.00

Teacher Preparation Scholarships

Administration	5,250.00
----------------------	----------

Agricultural and Training Schools

Benson County—Maddock*	18,500.00
Walsh County—Park River*	21,000.00

Total\$25,720,930.00

*The amount expended shall not exceed the amount levied by the county in accordance with section 15-42-08 of the North Dakota Century Code.

Approved March 21, 1963.

CHAPTER 18

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

BOARD OF SCHOOL DISTRICT REORGANIZATION

AN ACT

Making an appropriation for the purpose of defraying the expenses of the maintenance and operation of the board of school district reorganization.

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

§ 1. **Appropriation.**) There is hereby appropriated out of the state general fund in the state treasury, not otherwise appropriated, the sum of \$42,590.00, or so much thereof as may be necessary for the maintenance and operation of the board of school district reorganization, as provided for in chapter 15-53 of the North Dakota Century Code, for the biennium beginning July 1, 1963, and ending June 30, 1965, to wit:

State and county committees.....	\$ 15,000.00
Clerkhire	20,590.00
Social security, old age and survivor insurance	1,200.00
Miscellaneous	1,000.00
Travel expense	4,800.00
Total	\$ 42,590.00

Approved February 21, 1963.

CHAPTER 19

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

SPECIAL EDUCATION OF EXCEPTIONAL CHILDREN

AN ACT

Making an appropriation for the use of special education of exceptional children.

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 general fund in the state treasury, the sum of \$500,000.00 for the special education of exceptional

children under the sole supervision of the superintendent of public instruction, for the biennium beginning July 1, 1963, and ending June 30, 1965, to wit:

Salary—director	\$ 15,720.00
Social security, old age and survivor insurance	1,280.00
Clerkhire and administration	483,000.00
 Total	 \$ 500,000.00

Approved March 21, 1963.

CHAPTER 20

S. B. No. 20

(Committee on Appropriations)

STATE SCHOOL CONSTRUCTION FUND
AND BOARD EXPENSES

AN ACT

Making an appropriation for the administrative expenses of the state school construction fund and state school construction 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 school construction fund in the state treasury, not otherwise appropriated, the sum of \$32,000.00, or so much thereof as may be necessary to pay the administrative expenses of the state school construction fund and state school construction board as provided for in chapter 15-60 of the North Dakota Century Code, for the biennium beginning July 1, 1963, and ending June 30, 1965.

Approved March 21, 1963.

CHAPTER 21

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

VOCATIONAL REHABILITATION DIVISION

AN ACT

Making an appropriation for the division of vocational rehabilitation and for the governor's committee on employment of the physically handicapped.

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

§ 1. Appropriation.) There is hereby appropriated out of the general fund in the state treasury the sum of \$351,948.00, or so much thereof as may be necessary for the vocational rehabilitation of disabled persons, to be matched with federal funds; and for the governor's committee on employment of the physically handicapped, for the biennium beginning July 1, 1963, and ending June 30, 1965, to wit:

Vocational rehabilitation—state matching ...\$	280,000.00
State matching for office of case screening and policy supervision by the state board of public school education	6,000.00
Vocational rehabilitation state matching emergency	30,000.00
Governor's committee on employment of the physically handicapped	18,150.00
Services for the blind	14,436.00
Old age and survivor insurance	3,362.00
Total	\$ 351,948.00

Approved March 21, 1963.

CHAPTER 22

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

SURPLUS PROPERTY DIRECTOR

AN ACT

Making an appropriation to the department of public instruction, for the purpose of paying salaries and other expenses of the director of surplus property, 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 surplus property special fund in the state treasury, not otherwise appropriated, the sum of \$131,000.00, or so much thereof as may be necessary to the department of public instruction, for the purpose of paying salaries and other expenses of the director of surplus property as provided for in chapter 15-61 of the North Dakota Century Code, for the biennium beginning July 1, 1963, and ending June 30, 1965, as follows:

Salaries and other expenses of the director and old age and survivor insurance.....	\$131,000.00
Total	\$131,000.00

§ 2. Appropriation.) There is hereby appropriated out of any moneys in the surplus property special fund in the state treasury, not otherwise appropriated, the sum of \$16,000.00, or so much thereof as may be necessary, to the department of public instruction, for the purpose of paying salaries and other expenses of the director of surplus property as provided for in chapter 15-61 of the North Dakota Century Code, for the biennium ending June 30, 1963, as follows:

Salaries and other expenses of director and old age survivor insurance.....	\$16,000.00
Total	\$16,000.00

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

Approved March 18, 1963.

CHAPTER 23

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

DIVISION OF SUPERVISED STUDY

AN ACT

Making an appropriation for the salaries and miscellaneous expenses of the division of supervised study.

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

§ 1. Appropriation.) There is hereby appropriated out of the state general fund in the state treasury, the sum of \$550,000.00, or so much thereof as may be necessary for salaries and miscellaneous expenses of the division of supervised study, as provided for in chapter 15-19 of the North Dakota Century Code, for the biennium beginning July 1, 1963, and ending June 30, 1965, to be expended as follows:

General operational expense of division	\$ 300,000.00
Course supervisors, student refunds, rental library book purchase and library supplies, films and maintenance of film library, books for resale, educational entertain- ment	250,000.00
Total	\$ 550,000.00

In no event shall the expenditures for course supervisors, student refunds, rental library and book purchases and library supplies, films and maintenance of film library, books for resale and educational entertainment when totaled at the end of the biennium exceed the total collections from such services during the biennium.

Approved March 21, 1963.

CHAPTER 24

S. B. No. 24

(Committee on Appropriations)

NATIONAL DEFENSE EDUCATION

AN ACT

Making an appropriation to permit North Dakota to take advantage of the National Defense Education Act for the purpose of improving instruction in the state in accordance with the Act.

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 \$99,000.00, or so much thereof as may be necessary for administration, supervision, purchasing equipment, and matching on a fifty-fifty basis federal funds for the purpose of improving instruction in science, mathematics, and modern foreign languages, and establishing better programs in guidance, counseling and testing to encourage students with outstanding aptitude and ability to continue their education, and in general to participate in accordance with the National Defense Education Act, Public Law 85-864, for the biennium beginning July 1, 1963, and ending June 30, 1965, to wit:

Salaries and clerkhire	\$ 34,000.00
Old age survivor insurance and social security	2,000.00
Travel	5,000.00
Postage, supplies and equipment	3,000.00
Reimbursement under Title V	15,000.00
Printing	25,000.00
Statistical service under Title X	8,000.00
Committee expenses	5,000.00
Miscellaneous	1,000.00
Teachers insurance and retirement	1,000.00
 Total	 \$ 99,000.00

Approved March 4, 1963.

CHAPTER 25

S. B. No. 25

(Committee on Appropriations)

CHILDREN'S PSYCHIATRIC CLINIC

AN ACT

Making an appropriation for the purpose of paying expenses of the children's psychiatric outpatient clinic, located at Bismarck, 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 general fund in the state treasury, not otherwise appropriated, the sum of \$150,000.00 for the purpose of paying expenses of the children's psychiatric outpatient clinic, located at Bismarck, North Dakota, administered by the mental health authority under the state department of health for the purpose of psychiatric assistance for those youths and children placed under the control of the state of North Dakota through the operation of laws of the state of North Dakota, and other residents who are referred to such clinic by an agency of the state, for the biennium beginning July 1, 1963, and ending June 30, 1965.

Approved March 18, 1963.

CHAPTER 26

S. B. No. 26

(Committee on Appropriations)

DEAF-BLIND CHILDREN

AN ACT

Making an appropriation to pay for the education of children, who are deaf as well as blind, at any school or institution, outside the state of North Dakota, for which there are no facilities in 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 public welfare fund in the state treasury, not otherwise appropriated, the sum of \$30,000.00 for the education of children who are deaf as well as blind, at any school or institution, outside the state of North Dakota, for

which there are no facilities in the state, and which is under the sole supervision of the board of administration, for the biennium beginning July 1, 1963, and ending June 30, 1965.

Approved February 21, 1963.

CHAPTER 27

S. B. No. 27

(Committee on Appropriations)

STATE SEED DEPARTMENT

AN ACT

Making an appropriation for salaries and expenses for the state seed department.

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

§ 1. **Appropriation.**) There is hereby appropriated out of the seed department fund in the state treasury, the sum of \$722,860.00, or so much thereof as may be necessary for salaries and expenses for the state seed department, as provided for in chapter 4-09, 4-10 and 4-11, North Dakota Century Code, for the biennium beginning July 1, 1963, and ending June 30, 1965, to wit:

Administration	\$ 21,000.00
Deputy commissioners	60,000.00
Clerkhire, old age survivor insurance and social security	62,660.00
Field supervising inspectors	22,000.00
Seed and potato inspectors	250,000.00
Assistant seed analysts	11,000.00
Postage, supplies, printing, furniture and fixtures	21,000.00
Miscellaneous	20,000.00
Advertising and research	45,000.00
Travel expense	75,000.00
Test plots	15,000.00
Tags and seals	22,000.00
Production and marketing administration	18,000.00
Compiling reports	1,000.00
Automobiles	3,200.00
Rent	6,000.00
Emergency	50,000.00
Potato basic seed testing	20,000.00
Total	\$ 722,860.00

Approved March 21, 1963.

CHAPTER 28

S. B. No. 28

(Committee on Appropriations)

NORTH DAKOTA NATIONAL GUARD—MAINTENANCE

AN ACT

Making an appropriation for the maintenance of the North Dakota national guard as provided for by title 37 of the North Dakota Century Code, and reappropriating certain unexpended funds from previous appropriations for armory construction.

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 \$320,227.00, or so much thereof as may be necessary to carry out the provisions of title 37 of the North Dakota Century Code relating to the maintenance of the North Dakota national guard, for the biennium beginning July 1, 1963, and ending June 30, 1965.

§ 2. **Appropriation—Collections.**) All income, collections, and reimbursements of the North Dakota national guard from the United States and from armory rentals shall be deposited in the state treasury and credited to a national guard operating fund. All such income, collections, and reimbursements are hereby appropriated for the maintenance of the national guard and may be expended by the paymaster general in the manner and for the purposes provided in title 37 of the North Dakota Century Code. The paymaster general may, in accordance with the provisions of chapter 37-06, requisition funds appropriated in section 1 of this Act for transfer to the operating fund herein provided to be expended by the paymaster general in accordance with section 1 of this Act and title 37 of the North Dakota Century Code.

§ 3. **Reappropriation of Unexpended Balances.**) There is hereby reappropriated to the North Dakota national guard the sum of \$231,070.01, or such balance as may remain unexpended upon the effective date of this Act, from those appropriations previously made for the purpose of the construction of armories under the provisions of chapter 60 of the 1955 Session Laws of North Dakota and chapter 45 of the 1959 Session Laws of North Dakota. Such balance shall be expended for the construction of armories in the amounts and manner prescribed in chapter 60 of the 1955 Session Laws, chapter 45 of the 1959 Session Laws, and subdivision 21 of section 3 of chapter 46 of the 1961 Session Laws.

Approved March 18, 1963.

CHAPTER 29

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

STATE LIBRARY COMMISSION

AN ACT

Making an appropriation for salaries and expenses of the state library commission.

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

§ 1. Appropriation.) There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of \$140,002.00, or so much thereof as may be necessary for salaries and expenses of the state library commission, as provided for in chapter 54-24 of the North Dakota Century Code, for the biennium beginning July 1, 1963, and ending June 30, 1965, to wit:

Salary—director	\$ 13,000.00
Clerkhire	65,998.00
Old age survivor insurance and social security	4,500.00
Postage, supplies, printing, furniture and fixtures	8,500.00
Miscellaneous	1,200.00
Travel expense	2,500.00
Aid to libraries	1,000.00
Books, binding and repair	20,000.00
Expense for further extension of rural library services	23,304.00
Total	\$ 140,002.00

Approved March 18, 1963.

CHAPTER 30

S. B. No. 38

(Holand, Baeverstad, Luick, Reichert)
(From LRC Study)

SALES AND USE TAX STUDY

AN ACT

Making an appropriation and providing for a study and analysis of state policies and procedures in regard to the collection of sales and use taxes.

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 general fund in the state treasury, not otherwise appropriated, the sum of thirteen thousand dollars, or so much thereof as may be necessary, to the legislative research committee for the biennium beginning July 1, 1963, and ending June 30, 1965, for the purpose of conducting, with the consultation of the state tax department, a study of state laws, policies, and procedures in regard to the collection of sales and use taxes. The study shall include, but shall not be limited to, a study of sales tax laws and regulations, field and office auditing requirements and practices, administrative procedures, personnel requirements and standards, authority and responsibilities of the sales tax division and the sales tax deputy, the subjects taxable by the sales tax, and sales tax exemptions. The committee shall be authorized to employ professional personnel experienced in the enforcement and administration of sales and use taxes to aid the committee in its study and analysis. The committee shall make its report and recommendations to the Thirty-ninth Legislative Assembly, together with any legislation necessary to carry out such recommendations.

Approved March 18, 1963.

CHAPTER 31

S. B. No. 74

(Longmire, Redlin, Berube, Roen, Bopp, Miller, Mutch, Wadson,
(Kisse, Ringsak, Thompson, Van Horn, Kee, Morgan, Saumur,
(Trenbeath, Wartner, Holand, Baeverstad, Becker, Hernetz,
(Luick, Meidinger, Reichert, Brooks)

LEGISLATIVE RESEARCH COMMITTEE, DEFICIENCY

AN ACT

To make an appropriation to the legislative research committee for the purpose of reimbursing the committee for unexpected study costs, and declaring an emergency.

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

§ 1.) The legislative assembly hereby finds and declares that the workload and studies assigned to the legislative research committee by the Thirty-seventh Legislative Assembly was in excess of the workload and studies that could be carried on by such committee during the 1961-1963 biennium within the limits of the reduced appropriation that was requested by the committee and allowed by the legislative assembly for such biennium. The legislative assembly further finds and declares that it was the duty of such committee to carry out the directives and mandates of the Thirty-seventh Legislative Assembly in regard to such work and studies and that a deficiency appropriation is necessary to permit such committee to carry on its duties during the balance of the biennium.

§ 2. **Appropriation.**) There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of \$19,600.00 or so much thereof as may be necessary, to the legislative research committee for the purpose of carrying out its duties in accordance with chapter 54-35 of the North Dakota Century Code during the biennium beginning July 1, 1961, and ending June 30, 1963.

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

Approved February 15, 1963.

CHAPTER 32

S. B. No. 90

(Ringsak, Reichert, Van Horn, Lips)

BAR ASSOCIATION, DEFICIENCY

AN ACT

To make a deficiency appropriation to pay expenses and costs of legal research and education and supervision and improvement of the judicial system of the state of North Dakota activities of the state bar association, and declaring an emergency.

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

§ 1. Deficiency Appropriation.) There is hereby appropriated out of any moneys in the state bar association of North Dakota fund in the state treasury, not otherwise appropriated, the sum of \$20,000.00, or so much thereof as may be necessary to pay salaries and expenses of activities of the state bar association of North Dakota conducted in accordance with the provisions of sections 11-17-05, 27-03-05, 27-03-06, 27-07-40, 27-07-41, and 27-12-08 of the North Dakota Century Code, for the biennium ending June 30, 1963.

§ 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 21, 1963.

CHAPTER 33

S. B. No. 91

(Ringsak, Reichert, Van Horn, Lips)

STATE BAR ASSOCIATION

AN ACT

To make an appropriation to pay expenses and costs of legal research and education and supervision and improvement of the judicial system of the state of North Dakota activities of the state bar association.

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

§ 1. Appropriation.) There is hereby appropriated out of any moneys in the state bar association of North Dakota fund in the state treasury, not otherwise appropriated, the sum of

not to exceed \$70,000.00, or so much thereof as may be necessary, to pay salaries and expenses of the activities of the state bar association of North Dakota conducted in accordance with the provisions of sections 11-17-05, 27-03-05, 27-03-06, 27-07-40, 27-07-41, and 27-12-08 of the North Dakota Century Code, for the biennium starting July 1, 1963, and ending June 30, 1965, providing that at no time shall this appropriation exceed the amount available in the fund.

Approved March 2, 1963.

CHAPTER 34

S. B. No. 92
(Luick, Foss)

OLEOMARGARINE STAMPS, DEFICIENCY

AN ACT

To make a deficiency appropriation for the purchase of oleomargarine stamps by the state treasurer, and declaring an emergency.

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

§ 1. Deficiency Appropriation.) There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, to the state treasurer the sum of two thousand dollars or so much thereof as may be necessary, to meet deficiencies in the appropriation for the purchase of oleomargarine stamps during the biennium ending June 30, 1963.

§ 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 21, 1963.

CHAPTER 35

S. B. No. 117

(Wadeson, Solberg, George, Baker)

LEGISLATIVE EMPLOYEES' SALARIES

AN ACT

Making an appropriation for the salaries of employees and expenses of the Thirty-eighth 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 general fund in the state treasury, not otherwise appropriated, the sum of \$95,000.00, or so much thereof as may be necessary, for the purpose of paying the salaries of employees and other general expenses of the Thirty-eighth Legislative Assembly.

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

Approved January 28, 1963.

CHAPTER 36

S. B. No. 203

(Redlin, Meidinger)

HIGHER EDUCATION INTERSTATE COMPACT

AN ACT

Making an appropriation for the development and implementation of a regional interstate compact in the field of higher education.

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 \$3,000.00, or so much thereof as may be necessary, during the biennium beginning July 1, 1963, and ending June 30, 1965, for the purpose of development and participation in a regional compact among the states of the Midwestern Region in the field of higher education.

Approved March 18, 1963.

CHAPTER 37

S. B. No. 229

(Foss)

PROFITS AND SURPLUS TRANSFER TO GENERAL FUND

AN ACT

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

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

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

§ 2. Transfer.) There is hereby transferred to the general fund of this state the sum of four million dollars from the accumulated profits and surplus of the Bank of North Dakota on order of the industrial commission.

Approved March 22, 1963.

CHAPTER 38

S. B. No. 232

(Foss)

ECONOMIC DEVELOPMENT COMMISSION FUND TRANSFER

AN ACT

To transfer \$4,043.85 from an economic development commission fund to the general fund.

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

§ 1. Transfer of Funds.) There is hereby transferred from the economic development commission fund in the state treasury, as earmarked in such fund according to the records of the department of accounts and purchases, to the general fund in the state treasury the sum of \$4,043.85, said sum being the balance from a special revolving fund previously under the jurisdiction of the North Dakota research foundation and not transferred to the general fund upon the dissolution of such foundation.

Approved March 2, 1963.

CHAPTER 39

S. B. No. 237
(Longmire)

PUBLIC DOCUMENT PRINTING, DEFICIENCY

AN ACT

To make a deficiency appropriation to the secretary of state to pay for the printing and binding of public documents during the 1961-1963 biennium, and declaring an emergency.

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

§ 1. Deficiency Appropriation.) There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of \$913.00 or so much thereof as may be necessary to the secretary of state for the purpose of paying the deficiency in the cost of printing and binding the public documents for the biennium beginning July 1, 1961, and ending June 30, 1963.

§ 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, 1963.

CHAPTER 40

H. B. No. 501
(Committee on Appropriations)

STATE INSTITUTIONS OF HIGHER LEARNING

AN ACT

Making an appropriation for the general maintenance, plant improvements, and new buildings of the state institutions of higher learning of the state of North Dakota.

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

§ 1. Appropriations for the State Institutions of Higher Learning.) The sums hereafter named, or so much thereof as may be necessary, are hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, for the purpose specified in the following sections of this Act, to

each of the institutions hereinafter named, in the sums set forth as follows:

University of North Dakota

Operating budget	\$8,956,587.00
Less estimated income	2,045,340.00
Net appropriation	\$6,911,247.00
Plant improvements	400,000.00
Land purchases	50,000.00
Power plant addition	650,000.00
Total	\$8,011,247.00

The North Dakota State University of Agriculture and Applied Science

Operating budget	\$7,647,096.00
Less estimated income	2,039,057.00
Net appropriation	\$5,608,039.00
Plant improvements	224,700.00
Steam line project from college to division of supervised study	8,600.00
Storm sewer replacement	190,000.00
North entry paving	56,000.00
Total	\$6,087,339.00

Experiment Station

Main station appropriation	\$1,869,689.00
Fertilizer soil testing	12,422.00
Irrigation soil survey	74,289.00
Soil survey and interpretation	64,991.00
Veterinary diagnostic service	35,152.00
Potato research matching funds	39,000.00
Total main station	\$2,095,543.00

Branch stations appropriation:

1. Dickinson agronomy unit	84,956.00
2. Dickinson livestock unit	83,947.00
3. Edgeley	40,187.00
4. Hettinger	36,865.00
5. Langdon	40,269.00
6. North Central	38,208.00
7. Williston	66,090.00
8. Carrington	75,807.00

New buildings: (branch stations)

1. Completion of crop storage—laboratory—Carrington	20,000.00
Total branch stations	\$ 486,329.00
Total main and branch stations, plant improvements and new buildings	\$2,581,872.00

Extension Division

Administration	\$ 88,945.00
County agents	197,086.00
Agricultural engineer	17,496.00
Plant pathologist	21,600.00
Home demonstrations	64,389.00
4-H club and rural young people	78,276.00
Information and publications	62,039.00
Field agents in agriculture	215,105.00
Field agents in home economics	45,324.00
Total	\$ 790,260.00

State Teachers College, Dickinson

Operating budget	\$1,395,530.00
Less estimated income	242,600.00
Net appropriation	\$1,152,930.00
Plant improvements	53,750.00
Total	\$1,206,680.00

Normal and Industrial College, Ellendale

Operating budget	\$ 693,888.00
Less estimated income	96,500.00
Net appropriation	\$ 597,388.00
Total	\$ 597,388.00

State Teachers College, Mayville

Operating budget	\$1,080,922.00
Less estimated income	241,220.00
Net appropriation	\$ 839,702.00
Plant improvements	30,800.00
Special instruction projects	32,000.00
Dormitory equipment	25,000.00
Total	\$ 927,502.00

State Teachers College, Minot

Operating budget	\$2,646,610.00
Less estimated income	577,966.00
Net appropriation	\$2,068,644.00
Plant improvements	79,800.00
Total	\$2,148,444.00

State Teachers College, Valley City

Operating budget	\$1,512,530.00
Less estimated income	351,500.00
Net appropriation	\$1,161,030.00
Plant improvements	50,000.00
Campus improvement (providing Valley City will match this with a like amount)....	50,000.00
Total	\$1,261,030.00

State School of Science, Wahpeton

Operating budget	\$2,056,575.00
Less estimated income	557,300.00
Net appropriation	\$1,499,275.00
Plant improvements	50,000.00
Bus purchase	10,000.00
Total	\$1,559,275.00

State School of Forestry, Bottineau

Junior college division:	
Operating budget	\$ 411,842.00
Less estimated income	62,000.00
Net junior college	\$ 349,842.00
North Dakota forest service:	
Operating budget	\$ 323,009.00
Less estimated income from nurseries	85,000.00
Less federal reimbursement and state forest fund	60,000.00
Net forest service	\$ 178,009.00
Net appropriation (junior college and forest service)	\$ 527,851.00
Plant improvements	13,500.00
Total	\$ 541,351.00
Grand total all educational institutions	\$25,712,388.00

and in addition thereto there is hereby appropriated to each of the institutions hereinbefore named, all other incidental income, collections and fees, interest and income, that such institutions may collect and receive, and such incidental income, collections and fees, interest and income, shall be used by each institution for such miscellaneous purposes as may be necessary for the maintenance and operation of the institution. The department of accounts and purchases is hereby authorized and directed, upon the order of the state board of higher education, to issue warrants against all funds deposited in the state treasury, provided, however, that the limitation of section 54-27-10 of the North Dakota Century Code shall apply only to that part of the appropriation which is derived from the general fund.

§ 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 1, 1963 and ending June 30, 1965.

§ 3. 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 holdings shall not affect or be construed to apply to the remaining items of appropriation herein or purposes herein.

Approved March 21, 1963.

CHAPTER 41

H. B. No. 502

(Committee on Appropriations)

SOCIAL SECURITY CONTRIBUTION FUND

AN ACT

Relating to an appropriation for the purpose of administering the provisions of chapter 52-10 of the North Dakota Century Code, pertaining to social security coverage of public employees.

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

§ 1. Appropriation.) There is hereby appropriated to the unemployment compensation division, out of any funds in the social security contribution fund, collected as provided by

section 52-10-04 of the North Dakota Century Code, not otherwise appropriated, the sum of \$47,459.00, or so much thereof as may be necessary for the purpose of administering the provisions of chapter 52-10 of the North Dakota Century Code, pertaining to social security coverage of public employees, during the biennium beginning July 1, 1963, and ending June 30, 1965.

Approved March 6, 1963.

CHAPTER 42

H. B. No. 503

(Committee on Appropriations)

OLD AGE AND SURVIVOR INSURANCE SYSTEM

AN ACT

Making an appropriation to pay the costs of the administration of the old age and survivor insurance system.

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 social security contribution fund, collected as provided by section 52-10-04 of the North Dakota Century Code, not otherwise appropriated, the sum of \$48,828.00, or so much thereof as may be necessary to pay the costs of the administration of the old age and survivor insurance system, for the biennium beginning July 1, 1963, and ending June 30, 1965, to wit:

Personal services	\$ 34,375.00
Postage, supplies, printing and binding	4,448.00
Furniture and fixtures	2,547.00
Travel expense	1,250.00
Miscellaneous	1,394.00
Audit	1,800.00
Rent of premises	1,200.00
Retirement contributions	1,814.00
 Total	 \$ 48,828.00

Approved March 8, 1963.

CHAPTER 43

H. B. No. 504
 (Committee on Appropriations)

LIVESTOCK SANITARY BOARD

AN ACT

Making an appropriation to the livestock sanitary board for its operating and maintenance expense, and for indemnifying owners of animals, to the Bangs disease fund and to the bovine tuberculosis 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 \$225,600.00, or so much thereof as may be necessary, to pay the operating and maintenance expenses of the livestock sanitary board, and for the expenses and indemnifying owners of animals, to the Bangs disease fund and to the bovine tuberculosis fund, for the biennium beginning July 1, 1963, and ending June 30, 1965, in the sums hereinafter named only, to wit:

Livestock Sanitary Board

Salary, executive officer and state veterinarian	\$ 20,600.00
Administration expense	100,000.00
Total	\$ 120,600.00

Bangs Disease Fund and Bovine Tuberculosis Fund

Indemnity, printing and postage (to be made available immediately on passage) ..	8,100.00
For vaccination in infected herds (to be made available immediately on passage) ..	5,000.00
Bangs certification and recertification and tuberculosis testing and certification in three remaining counties, Burleigh, McIntosh and Dickey and miscellaneous (to be made available immediately on passage)	90,284.00
Payment for testing brucellosis from October 1960 through June 1961 (to be made available immediately on passage)	1,616.00
Total	\$ 105,000.00
Grand total	\$ 225,600.00

§ 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 on such items as are designated to be made available immediately on passage.

Approved March 21, 1963.

CHAPTER 44

H. B. No. 505

(Committee on Appropriations)

LIVESTOCK FEEDLOTS

AN ACT

Authorizing the state livestock sanitary board to provide by regulation for the quarantine of livestock feedlots; providing for the licensing of quarantined feedlots; and making an appropriation.

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

§ 1. **Appropriation.)** There is hereby appropriated to the state livestock sanitary board out of any moneys in the state treasury in the general fund the sum of \$10,000.00, or so much thereof as may be necessary for paying veterinarian inspector's fees and expenses and costs of administration in connection with licensed quarantined feedlots as provided by law and regulations of the state livestock sanitary board for the biennium beginning July 1, 1963, and ending June 30, 1965.

Approved March 21, 1963.

CHAPTER 45

H. B. No. 506

(Committee on Appropriations)

LIVESTOCK INSPECTION FEES

AN ACT

Making an appropriation to pay veterinary inspectors and expenses in connection with livestock sales rings as provided by law and by regulations promulgated by the livestock sanitary board.

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

§ 1. **Appropriation.)** There is hereby appropriated to the livestock sanitary board out of any moneys in the state treasury in the general fund, the sum of \$100,000.00, or so

much thereof as may be necessary for paying veterinary inspectors and expenses in connection with livestock sales rings as provided by law and by regulations promulgated by the livestock sanitary board, for the biennium beginning July 1, 1963, and ending June 30, 1965.

Approved March 21, 1963.

CHAPTER 46

H. B. No. 507

(Committee on Appropriations)

COMMISSIONER OF VETERANS' AFFAIRS

AN ACT

Providing an appropriation for the paying of salary, clerkhire, travel and general expenses of the office of commissioner of veterans' affairs.

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

§ 1. **Appropriation.**) There is hereby appropriated out of the veterans' aid fund in the state treasury, not otherwise appropriated, the sum of \$72,886.00, or so much thereof as may be necessary to pay salary, clerkhire, travel and general expenses of the office of commissioner of veterans' affairs as prescribed by chapter 37-18 of the North Dakota Century Code, for the biennium beginning July 1, 1963, and ending June 30, 1965, to wit:

Salary—commissioner	\$ 11,460.00
Salary—assistant commissioners	24,636.00
Clerkhire	14,550.00
Social security, old age and survivor insurance	3,100.00
Postage, supplies, printing, furniture and fixtures	4,500.00
Light, telephone and telegraph	1,500.00
Miscellaneous	700.00
Travel expense	7,000.00
Rent	4,440.00
Cost of service officers' schools	500.00
Travel—state advisory committee	500.00
Total	\$ 72,886.00

Approved March 21, 1963.

CHAPTER 47

H. B. No. 508

(Committee on Appropriations)

VETERANS' AID COMMISSION

AN ACT

Making an appropriation for the administration expenses of the veterans' aid commission.

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

§ 1. Appropriation.) There is hereby appropriated out of the veterans' aid fund in the state treasury, not otherwise appropriated, the sum of \$16,500.00, or so much thereof as may be necessary for the administrative expenses of the veterans' aid commission for the biennium beginning July 1, 1963, and ending June 30, 1965.

Approved March 5, 1963.

CHAPTER 48

H. B. No. 509

(Committee on Appropriations)

NORTH DAKOTA SOLDIERS' HOME

AN ACT

Making an appropriation for the general maintenance, improvements and special projects for the North Dakota soldiers' home at Lisbon, North Dakota.

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

§ 1. Appropriation.) There is hereby appropriated the sum of \$184,428.00 out of interest and income and federal aid funds of the home hereafter named, and the sum of \$125,252.00 out of the state treasury, not otherwise appropriated, or so much thereof as may be necessary to pay the general maintenance, improvements and special projects for the North Dakota soldiers' home at Lisbon, North Dakota, for the biennium beginning July 1, 1963, and ending June 30, 1965, to wit:

Board members—expense and per diem	\$	1,600.00
Salary—commandant		14,960.00
Salaries for staff		32,820.00

Social security, old age and survivor insurance	11,100.00
Civilian employees and home members employed	126,000.00
Maintenance and operating	92,000.00
Insurance	4,500.00
Grounds improvements	2,500.00
Painting and repairing of all buildings	6,500.00
Kitchen and dining room	1,500.00
Farm	1,700.00
Housekeeping	2,500.00
Trade-in on pickup	2,000.00
Special project:	
Continue remodeling of the civilian quarters interrupted for lack of funds	10,000.00
Total	\$ 309,680.00

Approved March 5, 1963.

CHAPTER 49

H. B. No. 510
(Committee on Appropriations)

PUBLIC WELFARE BOARD

AN ACT

Making an appropriation for the disbursement by the public welfare board in providing public assistance to dependent children and to needy blind and providing child welfare services and services to crippled children, also providing assistance to the needy aged and general assistance for relief to destitute and necessitous persons, aid to permanently and totally disabled, medical aid to the aged, and for the necessary costs of administration of all of the programs above mentioned.

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 general fund in the state treasury, not otherwise appropriated, the sum of \$12,200,792.00, or so much thereof as may be necessary, to be expended by the public welfare board in providing public assistance to dependent children and to needy blind and providing child welfare services and services to crippled children, also for providing assistance to the needy aged and general assistance for relief to destitute and necessitous persons, aid to permanently and totally disabled, medical aid to the aged, and for the necessary

costs of administration of all of the programs above mentioned, for the biennium July 1, 1963, and ending June 30, 1965, to wit:

Assistance programs:

1. North Dakota share of old age assistance, aid to blind, aid to permanently and totally disabled, and medical aid to the aged—Kerr-Mills implementation\$ 7,300,000.00
2. Aid to dependent children 3,500,000.00
3. General assistance 150,000.00

Service programs:

1. Child welfare services and psychiatric care 300,000.00
2. Crippled children's services 400,000.00

Administration:

1. Personal services:
 - a. Salaries 391,817.00
 - b. Social security, old age and survivor insurance 21,875.00
2. Doctors' fees for eye examination 1,600.00
3. Travel expense 32,200.00
4. Communications (postage, telephone and telegraph) 18,800.00
5. Printing and supplies 23,000.00
6. Equipment:
 - a. Rental 14,400.00
 - b. Repair and maintenance 2,600.00
 - c. Purchases 7,500.00
7. Other operating expense 4,800.00
8. Board member expense 14,700.00
9. Cost of merit system 17,500.00

Total\$12,200,792.00

Approved March 21, 1963.

CHAPTER 50

H. B. No. 511
 (Committee on Appropriations)

CIVIL DEFENSE

AN ACT

Making an appropriation to continue the operation of North Dakota civil defense as provided for by chapter 37-17 of the North Dakota Century Code.

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 general fund of the state treasury the sum of \$100,000.00 to carry out the provisions of chapter 37-17 of the North Dakota Century Code, relating to the operation of the civil defense for North Dakota, to wit:

Operating expense	\$ 98,000.00
Property (auto)	2,000.00
	<hr/>
Total	\$ 100,000.00

Approved March 21, 1963.

CHAPTER 51

H. B. No. 512
 (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 in the motor registration fund, not otherwise appropriated, the sum of \$723,000.00, 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 1, 1963, and ending June 30, 1965, to wit:

Salary	\$ 16,800.00
Clerkhire	235,700.00
Social security, old age and survivor insurance	24,000.00
Operating IBM machines	190,000.00
Postage, supplies, printing, furniture and fixtures	125,000.00
Miscellaneous	8,000.00
Tags	100,000.00
Travel expense	9,000.00
Refunds	500.00
Audit	4,000.00
Emergency	10,000.00
 Total	 \$723,000.00

Approved March 21, 1963.

CHAPTER 52

H. B. No. 513

(Committee on Appropriations)

STATE HIGHWAY DEPARTMENT

AN ACT

Making an appropriation for the purpose of defraying the expenses of the maintenance and operation of the state highway department.

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

§ 1. Appropriation for Administrative Expense.) There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, and accruing from the "motor vehicle registration fund" as created by section 39-04-39 of the North Dakota Century Code, the sum of \$200,000.00, or so much thereof as may be necessary for the purpose of defraying the expenses of administration and operation of the state highway department and in carrying out the provisions and purposes of the state highway department law and cooperating with the Federal Government under the Act of Congress known as the "Federal Highway Act", for the biennium beginning July 1, 1963, and ending June 30, 1965, to wit:

Salary—state highway commissioner (to be fixed by the governor, not exceeding)	\$ 25,000.00
General operating expense	175,000.00

Total	\$200,000.00

§ 2. Additional Appropriation for Administration Expenses.)

In addition to the amount hereinbefore appropriated, there is hereby appropriated out of the state highway fund, a sum not to exceed three percent of the cost of construction, reconstruction, maintenance and all other work undertaken in whole or in part from federal, county and state funds to cover additional cost of administration of said department.

§ 3. Additional Appropriation for Maintenance and Construction.)

In addition to the above amounts allowed for office and administrative expenses of said department, there is hereby appropriated out of any funds available to the state highway department, not otherwise appropriated, such part thereof as may be necessary to expend during said biennium period for the construction, reconstruction and maintenance of public roads, including necessary expenses of labor, equipment and other costs and expenses allowed by statute and required for such construction, reconstruction and maintenance.

Approved March 21, 1963.

CHAPTER 53

H. B. No. 514

(Committee on Appropriations)

WORKMEN'S COMPENSATION BUREAU

AN ACT

Making an appropriation for the purpose of paying salaries and miscellaneous expenses 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 \$701,360.00, or so much thereof as may be necessary for the purpose of paying salaries and miscellaneous expenses of the workmen's compensation bureau for the biennium beginning July 1, 1963, and ending June 30, 1965, to wit:

Salaries—commissioners (3)	\$ 27,260.00
Business manager	14,050.00
Clerkhire	321,500.00
Social security, old age and survivor insurance	36,450.00
Postage, supplies, printing, furniture and fixtures	50,000.00
Miscellaneous	10,000.00
Travel expense, automobile, equipment and maintenance	45,000.00
Safety department	74,100.00
Boiler inspection	20,000.00
Legal clerkhire	44,000.00
Legal expense	8,000.00
Actuary	10,000.00
Medical director	30,000.00
Department audit	6,000.00
Emergency	5,000.00
 Total	 \$701,360.00

Approved March 21, 1963.

CHAPTER 54

H. B. No. 515

(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 \$1,297,400.00, 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 1, 1963, and ending June 30, 1965, to wit:

Salary—commissioner	\$ 17,200.00
Salary—deputy commissioner	16,200.00

Salaries and wages	464,000.00
Social security, old age and survivor insurance	40,000.00
General operation	380,000.00
Dam construction	100,000.00
Emergency	40,000.00
Upland game propagation	50,000.00
Federal matching	190,000.00
 Total	 \$1,297,400.00

Approved March 21, 1963.

CHAPTER 55

H. B. No. 516

(Committee on Appropriations)

TEACHERS' INSURANCE AND RETIREMENT FUND

AN ACT

Making an appropriation for the purpose of operating and maintaining the teachers' insurance and retirement fund.

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

§ 1. **Appropriation.**) There is hereby appropriated out of any moneys in the state treasury in the teachers' insurance and retirement fund, the sum of \$81,450.00 for the purpose of operating and maintaining the teachers' insurance and retirement fund, for the biennium beginning July 1, 1963, and ending June 30, 1965, to wit:

Salary—executive director	\$ 13,000.00
Clerkhire	40,000.00
Social security, old age and survivor insurance	2,650.00
Postage, supplies, printing, furniture and fixtures	10,000.00
Miscellaneous	2,000.00
Travel expense	1,500.00
Audit	2,000.00
Actuary	3,000.00
Rent and maintenance	7,300.00
 Total	 \$ 81,450.00

Approved March 9, 1963.

CHAPTER 56

H. B. No. 517
(Committee on Appropriations)

SCHOLARSHIPS FOR NURSES

AN ACT

Making an appropriation to provide for nurse preparation scholarships for qualified residents of North Dakota who express an intent to prepare for nursing, as provided for in chapter 43-12 of the North Dakota Century Code, and establishing a revolving fund for nurses' scholarships.

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

§ 1. Appropriation.) There is hereby appropriated to the nurses' scholarship revolving fund out of any moneys in the state general fund in the state treasury, not otherwise appropriated, the sum of \$53,000.00, or so much thereof as may be necessary for the purpose of paying nursing preparation scholarships, as provided for in chapter 43-12 of the North Dakota Century Code, in an amount not to exceed \$50,000.00 and for the administration of this Act not to exceed \$3,000.00, for the biennium beginning July 1, 1963, and ending June 30, 1965.

§ 2. Nurses' Scholarship (Revolving) Fund.) All moneys appropriated for the purpose of granting (scholarships) under the provisions of chapter 43-12, together with principal and interest payments collected from recipients of (scholarships) shall be credited by the state treasurer to (a fund to be known as) the nurses' scholarship (revolving) fund, and the moneys in such fund (are hereby appropriated) for the purpose of granting such (scholarships).

Approved March 21, 1963.

CHAPTER 57

H. B. No. 519
 (Committee on Appropriations)

POULTRY IMPROVEMENT BOARD

AN ACT

Making an appropriation for the operation, maintenance and miscellaneous expenses of the poultry improvement 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 in the poultry improvement fund, the sum of \$185,600.00, or so much thereof as may be necessary for the operation, maintenance and miscellaneous expenses of the poultry improvement board, for the biennium beginning July 1, 1963, and ending June 30, 1965, to wit:

Salary—executive secretary	\$ 12,600.00
Clerkhire	10,000.00
Social security, old age and survivor insurance	3,500.00
Postage, supplies, printing, furniture and fixtures	7,500.00
Miscellaneous	6,500.00
Travel expense	3,000.00
Compensation and expense—board members..	4,000.00
Fieldmen	135,000.00
Emergency	3,500.00
 Total	 \$185,600.00

Approved March 5, 1963.

CHAPTER 58

H. B. No. 520
(Committee on Appropriations)

THE BANK OF NORTH DAKOTA

AN ACT

Making an appropriation for the purpose of defraying the expenses of maintenance and operation of the Bank of North Dakota and of the Judge A. M. Christianson Project.

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 Bank of North Dakota fund created by transfer of profits from said institution and by transfer of proper portions of fees, interest, rents and royalties collected in handling residual assets of the North Dakota Real Estate Bond Trust by the Bank of North Dakota, and by transfer of proper portions of rents and other income of the Judge A. M. Christianson Project, the sum of \$877,060.00, or so much thereof as may be necessary for the purpose of defraying the expenses of the maintenance and operation of the Bank of North Dakota and of the Judge A. M. Christianson Project therein, for the biennium beginning July 1, 1963, and ending June 30, 1965, to wit:

Banking Department

Administrative expense	\$535,360.00
General expense	205,500.00
Building maintenance	30,000.00
Emergency	25,000.00
Social security, old age and survivor insurance	32,500.00
Agricultural and industrial development department	15,000.00
Field supervision:	
Fieldmen and travel	13,000.00
Total	<u>\$856,360.00</u>

Judge A. M. Christianson Project

Administrative expense	\$ 13,200.00
General expense	1,800.00
Payments to school districts in lieu of taxes....	4,000.00

Emergency	1,000.00
Social security, old age and survivor insurance	700.00
 Total	 \$ 20,700.00
Grand total	\$877,060.00

Approved March 21, 1963.

CHAPTER 59

H. B. No. 521

(Committee on Appropriations)

STATE MILL AND ELEVATOR ASSOCIATION

AN ACT

Making an appropriation for the purpose of defraying the expenses of the maintenance and operation of the state of North Dakota doing business as the North Dakota mill and elevator association.

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

§ 1. Appropriation.) There is hereby transferred out of any moneys in the state treasury in the North Dakota mill and elevator association fund, the sum of \$3,418,350.00, or so much thereof as may be necessary to pay the general maintenance, repair, salaries, operating expenses, equipment and miscellaneous items of the North Dakota mill and elevator association, for the biennium beginning July 1, 1963, and ending June 30, 1965, to wit:

Manufacturing expense	\$1,060,000.00
Selling and delivery expense	660,000.00
Administration expense	146,150.00
General expense	252,700.00
Elevator department	291,000.00
Feed mill department	644,000.00
State local elevator	170,000.00
Audit fees	15,000.00
Emergency fund	179,500.00
 Total	 \$3,418,350.00

Approved March 21, 1963.

CHAPTER 60

H. B. No. 522

(Committee on Appropriations)

STATE OFFICERS' EXPENSE PAYMENTS

AN ACT

To provide for payment of expenses to certain state officers, making an appropriation.

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

§ 1.) The governor, secretary of state, state auditor, state treasurer, attorney general, commissioner of insurance, commissioner of agriculture and labor, superintendent of public instruction, state tax commissioner, and three public service commissioners, in order to properly discharge their official duties, shall each of them be paid the sum of \$3,000.00 for each calendar year of 1963 and 1964 for expenses and moneys expended while engaged in the discharge of official duties, to be paid in quarterly payments by the department of accounts and purchases without the filing of any itemized voucher or statement.

§ 2. **Appropriation.)** There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of \$72,000.00, or so much thereof as may be necessary to carry out the provisions of this Act.

Approved March 18, 1963.

CHAPTER 61

H. B. No. 523

(Committee on Appropriations)

STATE WHEAT COMMISSION

AN ACT

Making an appropriation for the purpose of defraying the expenses of the maintenance and operation of the state wheat commission.

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

§ 1. **Appropriation.)** There is hereby appropriated out of any moneys in the state wheat commission fund in the state treasury, not otherwise appropriated, the sum of \$420,282.00

for the purpose of defraying the expenses of the maintenance and operation of the state wheat commission, for the biennium beginning July 1, 1963, and ending June 30, 1965, to wit:

Salaries; payroll taxes; travel and subsistence; office expense; and elections	\$137,000.00
Promotional projects; consultants, technicians, survey and research; public relations and advertising; domestic promotion and con- sumer education (Kan. - N. Dak.); Great Plains Wheat, Inc.	263,282.00
Contingency fund	20,000.00
	\$420,282.00

Total
Approved March 21, 1963.

CHAPTER 62

H. B. No. 524
(Committee on Appropriations)

WATER CONSERVATION COMMISSION—
ADMINISTRATIVE FUND

AN ACT

Making an appropriation into the “administrative fund” for the state water conservation commission for general administration expenses, maintaining and construction of dams; planning and surveying projects; expenses of state compacts; and for organizing water conservation and irrigation districts for construction and development.

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

§ 1. Appropriation.) There is hereby appropriated into the “administrative fund” of the state water conservation commission out of any moneys in the state treasury, not otherwise appropriated, the sum of \$569,000.00 or so much thereof as may be necessary for the payment of all general administration expenses of said commission, compensation and expenses of all its employees, maintenance and construction of dams, administrative expenses of state compacts and for the payment of costs of planning, surveying and organizing water conservation and irrigation projects, or construction of projects for the purpose of cooperating with the Bureau of Reclamation, the corps of United States Army Engineers, the Soil Conservation Service, and any other federal agency, in the planning of the development of water resources of this state

for the beneficial use thereof, which may be matched either in whole or in part by federal or state agencies and governmental subdivisions of the state, for the biennium beginning July 1, 1963, and ending June 30, 1965, to wit:

Commissioners, per diem and expenses	\$ 6,500.00
Administrative, old age and survivor insurance	70,000.00
Maintenance of dams	150,000.00
International and interstate commissioners and conference expenses	10,000.00
Topographic surveys, cooperation with U.S. Geological Survey	30,000.00
Hydrographic surveys, cooperation with U.S. Geological Survey	27,500.00
Engineering and geological surveys and demonstrations	60,000.00
Cooperation with U. S. departments for organizing conservation and irrigation districts	60,000.00
Engineering investigations, planning, surveys and design of water resources projects	145,000.00
Administration of water laws	10,000.00
Total	\$ 569,000.00

Approved March 21, 1963.

CHAPTER 63

H. B. No. 525

(Committee on Appropriations)

STATE WATER CONSERVATION COMMISSION

AN ACT

Making an appropriation to the state water conservation commission for continued participation in the investigation, planning, construction and maintenance of multiple-purpose projects for beneficial utilization, control and management of public waters and providing that moneys appropriated by this Act, and any unused balance of moneys remaining unexpended, appropriated for the purpose mentioned, shall be covered into a fund designated "multiple-purpose fund" and that such fund shall remain available to the commission until expended.

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

§ 1. Appropriation.) There is hereby appropriated to the state water conservation commission out of any moneys in the state treasury, not otherwise appropriated, the sum of

\$300,000.00 to be available for continued participation, in conformity with such rules and regulations as it may prescribe, in the investigation, planning, construction and maintenance of projects, including but not limited to projects for flood control, hydroelectric power, irrigation, drainage and development of water supplies for irrigation, municipal, industrial and domestic uses, recreation, fish and wildlife propagation and pollution abatement and control.

§ 2. Special Appropriation.) There is hereby appropriated to the state water conservation commission out of any moneys in the state treasury, not otherwise appropriated, the sum of \$200,000.00 to be available, in conformity with such rules and regulations as it may prescribe, for use in providing anticipated future non-federal construction costs of and participation in federal, interstate or international water projects and for undertaking or participation in major, emergent or emergency state, area or local water resources development projects, activities or programs.

§ 3. Designation of Funds—Transfer of Unused Balance of Prior Appropriation Authorized.) Moneys appropriated to the state water conservation commission by this Act shall be covered into a fund heretofore designated "multiple-purpose cooperative fund" and any unused balance of moneys heretofore appropriated to the commission for the purposes mentioned shall be transferred to such fund and the moneys therein shall remain available to the commission as a standing and continuing appropriation until expended and shall not revert to the general fund under the provisions of section 54-27-09, as amended.

Approved March 14, 1963.

CHAPTER 64

H. B. No. 526
(Committee on Appropriations)

PUBLIC HEALTH DEPARTMENT

AN ACT

Making an appropriation for the operating and maintenance expenses of the public health department.

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

§ 1. Appropriation.) There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of \$634,000.00, or so much thereof as is necessary to

pay the salaries, clerkhire and all miscellaneous items and expenses of the public health department and its related agencies, and in collaboration with federal funds, for the biennium beginning July 1, 1963, and ending June 30, 1965, to wit:

Salary, state health officers, other personnel, social security, old age and survivor insurance	\$ 329,000.00
Postage, supplies, printing, furniture and fixtures	50,000.00
Travel expense	29,000.00
Merit system	8,500.00
Biologicals	37,500.00
Operation of two units (clinic and case finding)	40,000.00
Mental health authority	80,000.00
Dental health	25,000.00
Virus laboratory	15,000.00
Radiological health	20,000.00
 Total	 \$ 634,000.00

Approved March 21, 1963.

CHAPTER 65

H. B. No. 603

(Lowe, Schnell, Currie, Tweten, Collette, Stockman,
(Johnston, Mueller)

HEALTH DEPARTMENT INDUSTRIAL WASTE STUDY

AN ACT

Making an appropriation to the state department of health to develop and maintain a research and study program for industrial wastes.

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

§ 1. Appropriation.) There is hereby appropriated to the state department of health out of any moneys in the state treasury, not otherwise appropriated, the sum of \$35,000.00 or so much thereof as may be necessary for the purpose of conducting research and studies on methods of treating industrial wastes related to industrial development and increased processing of agricultural products resulting in high strength wastes and creating difficult pollution and treatment problems for several North Dakota municipalities, for the biennium beginning July 1, 1963, and ending June 30, 1965.

Approved March 8, 1963.

CHAPTER 66

H. B. No. 627

(Christopher, Halcrow, Unke, Anderson (Richland),
(Lowe, Diehl)

PEMBINA MUSEUM ADDITION CONSTRUCTION

AN ACT

To make an appropriation to the state historical society for the construction of an addition to the Pembina state museum.

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

§ 1. Appropriation.) There is hereby appropriated to the state historical society out of any moneys in the state treasury, not otherwise appropriated, the sum of \$5,000.00, or so much thereof as may be necessary, for construction of an addition to the Pembina state museum during the biennium beginning July 1, 1963, and ending June 30, 1965.

Approved March 13, 1963.

CHAPTER 67

H. B. No. 634

(Dick, Johnston, Dagman)

SOLDIERS' HOME, DEFICIENCY

AN ACT

To make an appropriation to the North Dakota soldiers' home at Lisbon to meet a deficiency, and to declare an emergency.

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

§ 1. Deficiency Appropriation.) There is hereby appropriated the sum of twenty-four thousand dollars out of interest and income funds of the North Dakota soldiers' home and federal aid funds of the home and the sum of five thousand dollars out of any moneys in the state treasury, not otherwise appropriated, or so much thereof as may be necessary, for the purpose of meeting deficiencies in the appropriation to the North Dakota soldiers' home as follows:

Civilian employees and home members	
employed	\$ 19,000.00
Maintenance and operation	10,000.00
	<hr/>
Total	\$ 29,000.00

§ 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 5, 1963.

CHAPTER 68

H. B. No. 644

(Baldwin, Fossum, Anderson (Richland), Reimers)

TRANSFER FROM GENERAL TO EQUALIZATION FUND

AN ACT

To provide for the transfer of funds from the general fund to the state equalization fund, and for the repayment thereof, and declaring an emergency.

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

§ 1. **Transfer of Funds.)** Upon the effective date of this Act the state treasurer shall transfer from the general fund to the state equalization fund the sum of \$3,400,000.00, for the purpose of meeting obligations of the state equalization fund for the period ending June 30, 1963.

§ 2. **Repayment.)** As moneys become available in the state equalization fund, the state treasurer shall transfer such moneys, in a total amount of \$1,600,000.00, from the state equalization fund to the general fund.

§ 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 1, 1963.

CHAPTER 69

H. B. No. 645
(Poling)

YELLOWSTONE-MISSOURI-FORT UNION COMMISSION

AN ACT

Making an appropriation to the Yellowstone-Missouri-Fort Union Commission in accordance with chapter 55-06 of the North Dakota Century Code.

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 general fund in the state treasury, not otherwise appropriated, the sum of one thousand dollars or so much thereof as may be necessary, to the Yellowstone-Missouri-Fort Union Commission for the purpose of carrying out the provisions of chapter 55-06 of the North Dakota Century Code, provided, that any or all of such sum may be expended during any period of the biennium notwithstanding any other provisions of law.

Approved March 4, 1963.

CHAPTER 70

H. B. No. 690

(Solberg, Baldwin, Anderson (Richland), Vinje, Mueller, Maragos,
(Kelly, Diehl, Anderson (McHenry), Poling, Hauf, Lowe, Bowles,
(Collette, Frank, Vendsel, Davis (Dickey), Wilkie, Backes, Mosal,
(Haugland, Fitch, Stockman, Saugstad, Seel, Goebel, Schnell,
(Olson, Currie, Vogel)

PEACE GARDEN MUSIC CAMP DINING FACILITIES

AN ACT

To make an appropriation to the state historical society for the construction and equipping of kitchen and dining facilities for the International Music Camp at the International Peace Garden, 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 general fund in the state treasury, not otherwise appropriated, the sum of \$35,000.00, or so much thereof as may be necessary, to the state historical society for

the construction and equipping of kitchen and dining facilities for the International Music Camp and other public purposes on lands comprising that part of the International Peace Garden situated within the state of North Dakota.

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

Approved March 4, 1963.

CHAPTER 71

H. B. No. 735

(Baldwin)

HECTOR AIRPORT LAND ACQUISITION

AN ACT

Making an appropriation for the purchase of land by the adjutant general adjacent to the air national guard facilities at Hector Airport at 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 \$49,000.00, or so much thereof as may be necessary, to the adjutant general for the purchase of approximately 93.85 acres of land, more or less, adjacent to the North Dakota air national guard facilities at Hector Airport near the city of Fargo, Cass County, North Dakota, during the biennium beginning July 1, 1963, and ending June 30, 1965.

Approved March 22, 1963.

CHAPTER 72

H. B. No. 755
(Wilkie, Solberg)

EXTRAORDINARY LAW ENFORCEMENT EXPENSES

AN ACT

Making an appropriation to meet extraordinary expenses of law enforcement arising by reason of the location of Indian reservations.

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 twenty thousand dollars, or so much thereof as may be necessary, for the purpose of meeting the extraordinary expenses of counties in law enforcement arising by reason of the location of Indian reservations in such counties. This appropriation shall be used for extraordinary expenses of law enforcement incurred from the effective date of this Act to and including June 30, 1965, and also shall be used for the payment of any claims for extraordinary expenses of law enforcement for any prior biennium for which there was not sufficient funds appropriated to meet all the claims for such extraordinary expenses of law enforcement.

9 § 2. **Application for Funds.**) Application for such funds shall be made to the attorney general by the county commissioners of the county so applying with the approval of the state's attorney and county auditor of such county, and the application shall be supported by itemized statements of extraordinary expenses incurred in law enforcement activities in such county by reason of federal agencies in or adjacent to said county.

§ 3. **Approval and Investigation.**) The attorney general shall have the duty to make such investigation as shall be deemed necessary and may approve or disapprove or reduce the amount applied for, and no payment shall be made without the prior approval by the attorney general of the duly verified voucher presented to the state auditor.

~~Approved March 6, 1963.~~

CHAPTER 73

H. B. No. 889

(Delayed Bills Committee)

LEGISLATORS' AND EMPLOYEES' EXPENSE PAYMENTS

AN ACT

Directing the payment of expense allowances to members of the Thirty-eighth Legislative Assembly, and directing payments to certain legislative employees, and declaring an emergency.

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

§ 1.) There shall be paid to each member of the Thirty-eighth Legislative Assembly in attendance at any time between the forty-fifth through the sixtieth days of the Thirty-eighth Legislative Session, in addition to the amount provided in section 54-03-20 of the North Dakota Century Code, the sum of one hundred and eighty dollars as reimbursement for his living expenses, including meals, lodging, and uncompensated travel, and other necessary expense during the legislative session and for expenses incurred in the execution of his public duties during the period beginning January 1, 1963, and ending June 30, 1963, which sum shall be paid on or before April 1, 1963. Attendance at the thirty-eighth biennial session at any time during the forty-fifth through the sixtieth legislative days of such session shall be a conclusive presumption of the expenditure of such expense allowance for the purposes set forth in this section and the expense allowance shall be excluded from gross income for income tax purposes. Such sum shall be paid in the same manner as the regular per diem of the members of the legislative assembly is paid.

§ 2.) There shall be paid to the following-named persons employed during the Thirty-eighth Legislative Session, in addition to the sums authorized in House Concurrent Resolution "K" of the Thirty-Eighth Legislative Session, as compensation for services performed, the amounts set opposite their respective names:

HOUSE

Gerald L. Stair, Chief Clerk	\$225.00
Monty C. Burke, Assistant Chief Clerk	162.00
Ruth Smith, Desk Reporter	225.00
Leo Leidholm, Bill Clerk	135.00
Arthur Laske, Sergeant-at-Arms	108.00
Shirley W. Lee, Chief Page	99.00

Esther McMullen, Page	99.00
Florence Nemer, Secretary to Speaker	135.00
Cora Essington, Chief Steno. & Payroll Clerk	180.00
Eileen Yeiter, Asst. Chief Steno.	144.00
Leo Bergeron, Calendar Clerk	135.00
Alfred Hetland, Bill Room Clerk	90.00
Jane Harrison, Telephone Clerk	90.00
Betty Warner, Telephone Clerk	90.00
John H. Formo, Enrolling & Engrossing Clerk	126.00
Cora Jean Kleppe, Enrolling & Engrossing Clerk	126.00
Enola Eck, Proofreader	108.00
Maude Grambs, Proofreader	108.00
Ica Saxvik, Postmistress	90.00
Jean Otteson, Chief Committee Clerk	135.00
Harriet N. McClelland, Committee Clerk	126.00
Doris M. Thomas, Committee Clerk	126.00
ElaNor Weber, House Appropriations Clerk	135.00
Ed. Haag, Chief Mail Room Clerk	117.00
Wilhelm Urlacher, Mail Room Clerk	90.00
Delano Wawers, Page	99.00
Douglas Rose, Floor Clerk	99.00
Mary E. Schmidt, Stenographer	126.00
August W. Kollmann, Cloak Room Attendant	90.00
Wilbur Tracy, Public Address System Operator....	117.00

SENATE

Howard F. Doherty, Secretary of Senate	\$225.00
Arthur Herk, Assistant Secretary of Senate	180.00
Dagny Olson, Desk Reporter	225.00
J. Vernon Asheim, Bill Clerk	153.00
A. E. Bradley, Sergeant-at-Arms	108.00
William A. Campbell, Page & Supervisor of Personnel	162.00
Edna Mae Bohe, Page & Bill Book Attendant	99.00
Lyman Lee, Calendar Clerk	135.00
G. R. Gilbreath, Enrolling & Engrossing Clerk	126.00
Vonny Mushik, Enrolling & Engrossing Clerk	126.00
Martin Kilwein, Bill Room Attendant	90.00
Robert Dahl, Mail Room Clerk	90.00
Jacob Hoffert, Bill Book Attendant	99.00
Agnes Ellwein, Stenographer	126.00
Rebecca Quanrud, Chief Steno. & Payroll Clerk....	180.00
Gerald F. Schafer, Committee Clerk	126.00
Pearl A. Engen, Committee Clerk	126.00
Myrtle Steen, Approp. Committee Clerk	135.00
Celia Fowler, Telephone Attendant	108.00
Helen Eckmann, Asst. Telephone Attendant	99.00
Effie Hamry, Postmistress	108.00

William S. Brown, Messenger to Governor	99.00
Marion I. Walter, Floorleaders' Clerk	126.00
Mrs. Mary Upham, Proofreader for the Journal	108.00
Arndt Erickson, Proofreader for the Journal	108.00
Donna M. Heisler, Secretary to President	135.00
E. Wilson Willoughby, Cloak Room Attendant	90.00

§ 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 19, 1963.

AERONAUTICS

CHAPTER 74

S. B. No. 247

(Becker, Tuff, Forkner, Mahoney, Sinner, Berube, Witteman)

AUTHORITY TO OPERATE AIRPORTS

AN ACT

To amend and reenact section 2-02-01 of the North Dakota Century Code, relating to authority to acquire and regulate airports for a public purpose, and declaring an emergency.

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

§ 1. **Amendment.**) Section 2-02-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2-02-01. Authority to Acquire, Operate, and Regulate Airports.) The North Dakota aeronautics commission and all counties, cities, villages, park districts, and townships of this state, separately or jointly, may acquire, establish, construct, expand, own, lease, control, equip, improve, maintain, operate, regulate, and police airports and landing fields for the use of aircraft either within or without the geographic limits of such political subdivisions, and may use for such purpose or purposes any available property owned or controlled by the state aeronautics commission or such political subdivisions. Any property acquired, owned, leased, controlled, or occupied for the purpose or purposes enumerated herein hereby is declared to be acquired, owned, leased, controlled, or occupied for a public purpose and as a matter of public need, and there shall be no liability on the part of the state aeronautics commission or any county, city, village, park district, or township in connection therewith, or in the operation thereof, except to its own employees.

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

Approved March 18, 1963.

CHAPTER 75

S. B. No. 301
(Becker, Mahoney)

ACCEPTANCE OF FEDERAL AIRPORT FUNDS

AN ACT

To amend and reenact section 2-05-06.1 of the North Dakota Century Code, relating to authority to accept federal or other moneys for airport construction.

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

§ 1. Amendment.) Section 2-05-06.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2-05-06.1. Authorization to Accept Federal or Other Moneys.) The North Dakota aeronautics commission or any county, city, village, park district, or township is authorized to accept, receive, and receipt for federal moneys, and other moneys, either public or private, for the acquisition, construction, enlargement, improvement, maintenance, equipment, or operation of airports and other air navigation facilities, and sites therefor, and to comply with the provisions of the laws of the United States and any rules and regulations made thereunder for the expenditure of federal moneys upon such airports and other air navigation facilities.

Approved March 16, 1963.

CHAPTER 76

S. B. No. 250

(Becker, Tuff, Forkner, Mahoney, Berube, Sinner, Witteman)

AERONAUTICS COMMISSION POWERS

AN ACT

Giving the North Dakota aeronautics commission all powers of an airport authority as defined in chapter 2-06, Airport Authorities Act and amendments thereto of the North Dakota Century Code, with certain exceptions, for the purpose of constructing an airport near the International Peace Garden, and declaring an emergency.

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

§ 1. North Dakota Aeronautics Commission Authorized to Have All Powers of an Airport Authority as Defined in Chapter 2-06, Airport Authorities Act of the North Dakota Century Code with Certain Exceptions.) The North Dakota aeronautics commission shall have all powers of an airport authority as defined in chapter 2-06, Airport Authorities Act and amendments thereto of the North Dakota Century Code, except powers to certify or levy taxes or issue bonds, for the purpose of constructing a public airport near the International Peace Garden.

§ 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 18, 1963.

CHAPTER 77

S. B. No. 114

(Longmire, Baker, Lips, Saumur, Meidinger)

AIRPORT AUTHORITIES ACT

AN ACT

To amend and reenact subsection 4 of section 2-06-01 and sections 2-06-02, 2-06-10, and 2-06-14 of the North Dakota Century Code, relating to municipal and regional airport authorities and the issuance of revenue bonds for their corporate purposes, authorizing governing bodies of municipalities to exercise powers granted to airport authorities, and declaring an emergency.

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

§ 1. Amendment.) Subsection 4 of section 2-06-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. "Airport authority" or "authority" shall mean any regional airport authority or municipal airport authority created pursuant to the provisions of this chapter, and the governing body of a municipality which has determined to exercise the powers of a municipal airport authority, pursuant to section 2-06-02;

§ 2. Amendment.) Section 2-06-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2-06-02. Creation of Municipal Airport Authority.) Any municipality may, by resolution of its governing body, create a public body corporate and politic to be known as a municipal airport authority, which shall be authorized to exercise its functions upon the appointment and qualification of the first commissioners thereof; or the governing body may by resolution determine to exercise any or all powers granted to such authorities in this chapter until or unless such powers are or have been conferred upon a municipal or regional airport authority. Upon the adoption of a resolution creating a municipal airport authority, the governing body of the municipality shall, pursuant to the resolution, appoint five persons as commissioners of the authority. The commissioners who are first appointed shall be designated to serve for terms of one, two, three, four, and five years, respectively, but thereafter, each commissioner shall be appointed for a term of five years, except that vacancies occurring otherwise than by expiration of term shall be filled for the unexpired term by the governing body.

§ 3. Amendment.) Section 2-06-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2-06-10. Bonds and Other Obligations.) An authority shall have the power to borrow money for any of its corporate purposes and issue its bonds therefor, including refunding bonds, in such form and upon such terms as it may determine, payable out of any revenues of the authority, including grants or contributions from the federal government or other sources, which bonds may be sold at public or private sale at not less than par and shall bear interest at a rate or rates not exceeding six per centum per annum. Any bonds issued pursuant to this chapter by an authority, or by a governing body exercising the powers thereof, shall be payable, as to principal and interest, solely from revenues of an airport or air navigation facility or facilities, and shall so state on their face, but if any such issue of bonds constitutes an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction, each bond of the issue shall be an equally valid and binding special obligation of the authority or municipality, as the case may be, in accordance with its terms, in an amount proportionate to the total amount of the issue which is within such limitation or restriction. Neither the commissioners of an authority nor the governing body of a municipality nor any person executing such bonds shall be liable personally thereon by reason of the issuance thereof, except to the extent that the bonds, if constituting an indebtedness, exceed any applicable limitation or restriction.

In case any of the commissioners or officers of an authority or municipality whose signatures appear on any bonds or coupons shall cease to be such commissioners or officers after authorization but before the delivery of the bonds, the signature shall, nevertheless be valid and sufficient for all purposes, the same as if the commissioners or officers had remained in office until delivery. Any provision of any law to the contrary notwithstanding, any bonds issued pursuant to this chapter shall be fully negotiable.

Any bond reciting in substance that it has been issued by the authority or municipality pursuant to the provisions of this chapter and for a purpose or purposes authorized to be accomplished by this chapter shall be conclusively deemed, in any suit, action, or proceeding involving the validity or enforceability of the bond or the security therefor, to have been issued pursuant to such provisions and for such purpose or purposes.

Bonds issued by an authority or municipality pursuant to the provisions of this chapter are declared to be issued for an

essential public and governmental purpose and, together with interest thereon, and income therefrom, shall be exempt from all taxes.

For the security of any such bonds the authority or municipality may by resolution make and enter into any covenant, agreement, or indenture authorized to be made as security for revenue bonds issued under chapter 40-35. The sums required from time to time to pay principal and interest and to create and maintain a reserve for the bonds may be made payable from any and all revenues referred to in this chapter, prior to the payment of current costs of operation and maintenance of the facilities. Whenever bonds are issued under this chapter and made payable from revenues of an airport acquired in whole or in part from the federal government under a deed or deeds containing restrictive covenants, reservations or restrictions, and a provision that upon breach thereof the title to the land shall revert to the United States, the governing body of the municipality shall be required, in the event that at any time all revenues, including taxes, appropriated and theretofore collected for such bonds are insufficient to pay principal or interest then due, to levy a general tax upon all of the taxable property in the municipality for the payment of such deficiency and at any time a deficiency is likely to occur within one year for the payment of principal and interest due on such bonds, the governing body, in its discretion, may levy a general tax upon all the taxable property in the municipality for the payment of such deficiency, and such taxes shall not be subject to any limitation of rate or amount applicable to other municipal taxes, provided that the initial resolution authorizing bonds for airport financing where reverter provisions are involved shall be published in the official paper, and any owner of taxable property within the city may within sixty days after such publication file with the city auditor a protest against the adoption of the resolution. If the governing body finds such protests to have been signed by the owners of taxable property having an assessed valuation equal to twenty percent or more of the assessed valuation of all taxable property within the city, as theretofore last finally equalized, all further proceedings under such initial resolution shall be barred.

§ 4. **Amendment.**) Section 2-06-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2-06-14. Tax Levy May Be Certified by Airport Authority or Municipality.) The airport authority may certify annually to the governing bodies, the amount of tax to be levied by each municipality participating in the creation of the airport

authority, and the municipality shall levy the amount certified, pursuant to provisions of law authorizing cities and other political subdivisions of this state to levy taxes for airport purposes. The levy made shall not exceed the maximum levy permitted by the laws of this state for airport purposes. The municipality shall collect the taxes certified by an airport authority in the same manner as other taxes are levied and collected and make payment to the airport authority. The proceeds of such taxes when and as paid to the airport authority shall be deposited in a special account or accounts in which other revenues of the authority are deposited and may be expended by the authority as provided for in this chapter. Prior to the issuance of bonds under section 2-06-10 the airport authority or the municipality may by resolution covenant and agree that the total amount of such taxes then authorized by law, or such portion thereof as may be specified by the resolution, will be certified, levied and deposited annually as herein provided, until the bonds and interest thereon are fully paid.

§ 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 18, 1963.

AGRICULTURE

CHAPTER 78

S. B. No. 84

(Forkner, Roen, Meidinger, Mahoney)

COUNTY FAIR TAX LEVY

AN ACT

To amend and reenact section 4-02-27.1 of the North Dakota Century Code, relating to an additional mill levy for the aid of county fair associations, and declaring an emergency.

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

§ 1. **Amendment.)** Section 4-02-27.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-02-27.1. Additional Levy Authorized.) The board of county commissioners may, by appropriate resolution, submit to the electors of the county at the next special or general election, the question of whether an annual levy of not to exceed one-half mill upon all taxable property in the county, in addition to the levy provided in section 4-02-27 of this code, shall be authorized for the purpose of aiding a county fair association. If such additional levy is approved by the electors, the board of county commissioners shall be authorized to make such additional annual levy, not to exceed one-half mill, and disburse the proceeds thereof in the manner provided in section 4-02-27 for the levy and disbursement of other county fair association aid funds. The failure of the electors to approve any additional mill levy under the provisions of this section shall not be construed as invalidating a levy previously approved by such electors prior to such election.

§ 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, 1963.

CHAPTER 79

S. B. No. 106
(Brooks)

ADDITIONAL COUNTY FAIR LEVY IN CERTAIN COUNTIES

AN ACT

To authorize certain counties to levy a tax for county fair purposes, providing for the expenditure of the proceeds, 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 having a population in excess of twenty-five thousand, according to the latest federal decennial census, shall, when petitioned by at least five percent of the electors of the county, including electors residing in at least one-half of the voting precincts of the county as determined by the number of votes cast in the county for the office of governor at the last preceding general election, submit to the electors of the county at any general election or special election called for such purpose, the proposition of authorizing the board of county commissioners to purchase or lease in the name of the county not to exceed two hundred and forty acres of real estate and to construct thereon such buildings and other improvements as may be deemed desirable for the conduct of a county fair and authorizing the board of county commissioners, in the event that the county general fund is deemed insufficient to provide funds therefor, to levy a tax of not to exceed two mills in any one year for a period of not to exceed ten years upon the net taxable valuation of property in the county. If a majority of the votes cast at such election are in favor of the proposition, including the proposed levy, the tax shall be levied and collected as are other property taxes, with the proceeds thereof to be placed into a fund to be known as the "county fair fund". Such tax shall be in addition to any mill levy limitations provided by law, including the levies authorized by sections 4-02-27 and 4-02-27.1.

§ 2.) Any property used for county fair purposes may be sold by the board of county commissioners upon such terms and conditions as the board shall determine, and the proceeds of such sale shall be placed in the county fair fund and used exclusively for county fair purposes, provided that if the county fails to hold a fair within the county for two successive years, any property on hand may be sold and the proceeds of such sale, together with any other unexpended balance in the

county fair fund may, at the discretion of the board of county commissioners, be transferred to the county general fund. The levy of the tax authorized by section 1 of this Act, expenditures of the proceeds thereof, and the conduct of the fair shall be governed by the provisions of sections 4-02-26 through 4-02-34 to the extent such sections are consistent with the provisions of this Act.

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

Approved March 9, 1963.

CHAPTER 80

S. B. No. 72

(Brooks, Baker, Dahlund, Ringsak, Robinson, Wartner, Sinner)

EXPERIMENT STATION BOARD OF VISITORS

AN ACT

To amend and reenact section 4-05-08.6 of the North Dakota Century Code, relating to travel expenses of the board of visitors for the north central agricultural experiment station.

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

§ 1. Amendment.) Section 4-05-08.6 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-05-08.6. Board of Visitors — Members — Inspection — Expenses—Duties.) It shall be the duty of the board of county commissioners of Renville, Bottineau, Rolette, Benson, Ward, McHenry, Pierce, McLean, Mountrail, Sheridan, Burke, and Wells counties to name two farmers operating farms in their respective counties to serve as a board of visitors to said north central agricultural experiment station. The members of the board of visitors shall serve for three years and shall not be eligible for reappointment until after a lapse of three years following each term of office. Vacancies occurring on such board shall be filled by the county commissioners of the county where such vacancy occurs. It shall be the duty of said board of visitors to make an annual inspection of said north central agricultural experiment station upon call of the director of the North Dakota agricultural experiment station. At least one of the inspections in a biennium shall be in the growing season. The board of visitors shall be entitled to a fee of five dollars

for each visit, plus mileage at the same rate as provided by law for other state officials for every mile actually traveled to and from said farm. It shall be the duty of the board of visitors to inspect the work of the north central agricultural experiment station and to counsel and advise with the officials in charge. The board of visitors shall name one of its members to serve as chairman and another to serve as secretary, and they shall make a written report to the director of the North Dakota agricultural experiment station.

Approved March 14, 1963.

CHAPTER 81

H. B. No. 823

(Leet)

POULTRY IMPROVEMENT BOARD, PURPOSE

AN ACT

To amend and reenact subsection 5 of section 4-13-03 of the North Dakota Century Code, relating to the purposes of the North Dakota poultry improvement board.

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

§ 1. Amendment.) Subsection 5 of section 4-13-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

5. To act as the state agency to cooperate with the United States department of agriculture, to provide federal-state grading service for poultry and poultry products, and to require identification as to grade of poultry and poultry products offered for sale at the retail level, and to supervise the federal-state poultry grading service; and

Approved March 9, 1963.

CHAPTER 82

H. B. No. 622

(Leet, Kelly, Overbo)

POULTRY IMPROVEMENT BOARD MEMBERSHIP

AN ACT

To amend and reenact sections 4-13-05 and 4-13-07 of the North Dakota Century Code, relating to the composition of the poultry improvement board and their expenses.

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

§ 1. **Amendment.**) Section 4-13-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-13-05. Members of Board—Qualifications—Appointment—Term—Vacancies.) Not later than July 10, 1943, the boards of directors of the North Dakota Poultry Association and the North Dakota Turkey Federation, acting concurrently, shall submit to the governor a list of nominees for appointment to the North Dakota poultry improvement board containing the names of three bona fide hatchery operators or owners, three poultry processors and marketing men, three poultry producers, three turkey breeders, and three persons engaged in the poultry feed business, and shall designate in such list the classification for which the nominees are selected. All of such nominees shall be qualified electors of the state of North Dakota. Not to exceed five days after the receipt of such list of nominees, the governor shall appoint from such list, six members of said board, consisting of one member from each of such classifications. One of such members shall be appointed for a term to expire July 1, 1944, one for a term to expire July 1, 1945, one for a term to expire July 1, 1946, one for a term to expire July 1, 1947, one for a term to expire July 1, 1948, and one for a term to expire July 1, 1949 and said members shall serve until such dates, respectively, and until their successors are appointed and qualified. On or before July first in each year hereafter when a term is to expire, the governor shall appoint one member, for a six-year term, who shall be appointed from a list of three nominees selected and submitted to him in the manner above set forth, such nominees to be named from the classification represented by the member whose term expires. Vacancies arising by reason of the death, resignation, removal, or disqualification of a member of said board shall be filled in the same manner as to nomination and appointment, and members appointed to fill vacancies shall serve for the unexpired term in which the vacancy has arisen.

§ 2. **Amendment.**) Section 4-13-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-13-07. Compensation of Board Members.) The appointive members of the board shall receive ten dollars per day for the performance of their duties under this chapter, including the attendance at regular and special meetings of the board. In addition to such compensation, they shall receive travel expenses and the regular mileage rate provided by law for other state officials for each mile actually and necessarily traveled in the performance of their duties. The amounts herein specified shall be the only compensation allowable and shall be payable from the poultry improvement fund. The ex officio members of the board shall receive no compensation or expense money from such fund, but they may collect their expenses in carrying out the work of the poultry improvement board from the state departments which they respectively represent.

Approved March 9, 1963.

CHAPTER 83

S. B. No. 186

(Ringsak, Mahoney, Meidinger, Sorlie)

DISCRIMINATION IN SALE OF FARM PRODUCTS

AN ACT

To amend and reenact section 4-14-04 of the North Dakota Century Code, relating to unfair discrimination in sale of farm products, and providing a savings clause.

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

§ 1. **Amendment.**) Section 4-14-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-14-04. Unfair Discrimination in Sale of Farm Products.) Any person doing business in the state of North Dakota and engaged in the manufacture, distribution, or sale of farm products who discriminates between different sections, communities, cities, or villages, or portions thereof in this state, by selling at a lower price or rate in one section, community, city, or village, or portion thereof than is charged by such person for such farm products in another section, community, city, or village, or portion thereof, after making due allowance

for the difference, if any, in the actual cost of transportation of such products, is guilty of unfair discrimination. Proof of such differential in price shall be prima facie evidence of violation of this section in a civil action. It shall not be unfair discrimination for any person to sell in any section, locality, community, city, or village at a price equal to that actually charged on the same day by any bona fide competitor in such section or locality for farm products of the same kind and grade if such price is charged in a bona fide and good faith effort to meet competition, and in such case, the burden of proving such facts shall be upon the defendant in a civil action.

§ 2. **Savings Clause.**) If any section, subsection, subdivision, sentence, phrase, clause, word or words of this Act shall for any reason be held to be unconstitutional, such decision shall not affect the validity of the remaining portions of the Act.

Approved March 15, 1963.

CHAPTER 84

H. B. No. 630

(Johnson, Vendsel, Gackle, Fossum, Christensen (McLean),
(Winge, Berg)

DAIRY PRODUCTS PROMOTION ASSESSMENTS

AN ACT

To amend and reenact subsection 7 of section 4-27-05 and section 4-27-06 of the North Dakota Century Code, relating to dairy products promotion.

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

§ 1. **Amendment.**) Subsection 7 of section 4-27-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

7. In order to effectuate the declared purposes of this chapter, the commission is hereby authorized to collect an assessment of one-half cent upon each pound of butterfat produced and sold in the state of North Dakota and to make disbursement from such funds as provided herein.

§ 2. **Amendment.**) Section 4-27-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-27-06. Assessment.) 1. There is hereby levied an assessment of one-half cent upon each pound of butterfat produced

and sold in the state of North Dakota. When butterfat is sold without a butterfat test being made, its butterfat content shall be computed on the basis of three and one-half percent of weight when milk, and thirty-two percent of weight when cream.

2. All assessments levied under this chapter shall be collected by the first dealer or processor through deduction of the same from the price paid for butterfat to the producer, with the exception that where the producer sells directly to the consumer, the assessment shall be collected from such producer. All moneys received by the dealers, processors and producers from such assessment shall be remitted to the state treasurer and deposited by him in the North Dakota dairy products promotion commission fund and are hereby appropriated to the commission and shall be disbursed by the commission in accordance with the provisions of this chapter. The remittance of such assessments shall be made monthly within fifteen days after the period for which remittance is made. Assessments unpaid on the date on which they are due and payable shall be increased by ten percent of the amount of the assessment.

3. Any producer desiring a refund of such assessment must himself make written application to the secretary-treasurer of the North Dakota dairy products promotion commission therefor. Such application may only be made on an annual basis and may only be made within thirty days after January first of each year on forms provided by the commission.

Approved March 7, 1963.

CHAPTER 85

S. B. No. 329

(Ringsak, Kautzmann, George, Erickson, Wartner, Sorlie,
(Chesrown, Strinden, Meidinger)

STATE DAIRY DEPARTMENT

AN ACT

To provide for the establishment of a dairy department within the department of agriculture and labor, to provide for a dairy commissioner and other personnel, and to prescribe their powers, duties, and salaries, and to repeal chapter 4-17 of the North Dakota Century Code, relating to the dairy department and the powers and duties of officials thereof.

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

§ 1. Dairy Department—Division of Department of Agriculture and Labor—Purposes.) The dairy department is a division of the department of agriculture and labor, and shall promote, improve, and regulate the dairy products of this state and enforce proper rules and regulations pertaining thereto.

§ 2. Dairy Commissioner and Assistants.) The commissioner of agriculture and labor shall appoint a deputy in his department to be known as the dairy commissioner, who shall be the official head of the dairy department. The commissioner of agriculture and labor, with the advice of the dairy commissioner, shall appoint as many assistant dairy commissioners as the needs of the department demand and funds available permit. The dairy commissioner, with the consent of the commissioner of agriculture and labor, may appoint special assistant dairy commissioners if a circumstance arises when a special assistant would facilitate or improve the effectiveness and efficiency of the dairy department. The assistant dairy commissioners and the special assistant dairy commissioners shall perform such duties as directed by the dairy commissioner and the commissioner of agriculture and labor, and when performing such duties, the assistant dairy commissioners and the special assistant dairy commissioners shall have the same authority as is conferred upon the dairy commissioner by this chapter.

§ 3. Duties of Dairy Commissioner.) The dairy commissioner shall enforce all laws and rules and regulations in force or hereafter enacted relating to the production, storage, processing, manufacturing, transportation, labeling, and sale of milk and milk products, their imitations and substitutes.

He shall promulgate and enforce rules and regulations necessary to promote, improve, and regulate the production,

storage, handling, processing, manufacturing, transportation, labeling and sale of milk and milk products, their imitations and substitutes, and shall amend, alter, or abolish such rules and regulations when warranted by changed conditions or experience.

He shall inspect, or have inspected, at least twice each year or oftener if necessary, every creamery, cheese factory, condensery, drying plant, ice cream factory, ice milk factory, cream station, dairy, bottling plant, storage depot, collecting station, and all other milk and cream purchasing, processing, manufacturing or distributing businesses, and any business which is processing or manufacturing a product which is an imitation or substitute for milk or milk products.

He shall assist dairy producers, processors, and all other persons, businesses and organizations concerned with dairying in promoting, improving, and regulating the dairy interests of this state.

He shall cooperate and consult with all federal, state, district, county, and municipal organizations, departments, agencies, schools, commissioners, associations, clubs and other groups interested in the dairy industry but shall not be bound by their policies.

§ 4. Additional Powers and Duties of Dairy Commissioner and Authorized Persons.) The dairy commissioner and those persons authorized by him:

1. Shall have free access to all places of business, buildings, vehicles, and equipment used in the production, storage, handling, processing, manufacture, transporting, and marketing of milk and milk products, their imitations, and substitutes.
2. May open and inspect any package, can, or other container which is suspected of containing any article or substance which is produced, stored, handled, processed, manufactured, transported, sold or offered for sale under the provisions of the North Dakota Century Code, or the rules and regulations of the dairy department, and he may take samples or specimens therefrom and have them analyzed or tested. A product so suspected may be seized or ordered held by the commissioner until samples are taken and tested in an approved laboratory.
3. May prevent the purchase, sale, processing, manufacturing or transportation of milk or milk products intended as food for human consumption which is in violation of any North Dakota laws or the rules and regulations of the dairy department. All persons engaged in the dairy business and officials and employees of common carriers

which transport milk or milk products shall give every assistance in their power in tracing and discovering the presence of any article named in violation of this North Dakota law when so requested by the commissioner or his duly authorized representatives.

§ 5. Reports — Dairy Commissioner and Commissioner of Agriculture and Labor—Contents.) The dairy commissioner shall make a report to the commissioner of agriculture and labor when directed by him. The annual report of the commissioner of agriculture and labor shall contain a detailed report of the work and proceedings, together with an account of expenses and disbursements of the dairy commissioner and the assistant dairy commissioners, in relation to the production, manufacture, and sale of dairy products, and such suggestions as the commissioner of agriculture and labor may regard of public importance.

§ 6. Assistant Dairy Commissioners — Duties — Powers.) The assistant dairy commissioners shall perform such duties as may be directed by the dairy commissioner or the commissioner of agriculture and labor, and when performing such duties, the assistant dairy commissioners shall have the same authority as is conferred upon the dairy commissioner by this chapter.

§ 7. Salaries and Expenses of Dairy Commissioner, Assistant Dairy Commissioners, and Special Assistant Dairy Commissioners.) The dairy commissioner and the assistant dairy commissioners shall receive salaries fixed by the commissioner of agriculture and labor within the limits of the legislative appropriations. The dairy commissioner and the assistant dairy commissioners shall be paid all actual and necessary expenses incurred in the performance of their duties, to be paid as the expenses of other departments are paid. If salaries, wages or expenses are paid to a special assistant dairy commissioner, he shall receive such compensation as fixed by the commissioner of agriculture and labor and shall be paid in the same manner as a regular employee of the department.

§ 8. Bulletins — Publishing — Contents — Expense.) The dairy commissioner under the supervision of the commissioner of agriculture and labor shall publish and distribute, from time to time, bulletins containing the rules and regulations promulgated by him, and other useful information of advantage to the dairy interests of this state. The expenses for such publications shall be audited and paid for as other public printing.

§ 9. Repeal.) Chapter 4-17 of the North Dakota Century Code is hereby repealed.

Approved March 7, 1963.

CHAPTER 86

S. B. No. 88

(Ringsak, Trenbeath, Mutch, Kisse)

DAIRY PRODUCTS, DEFINITIONS

AN ACT

To provide definitions for the administration and regulation of the dairy processing, production, and manufacturing industry within the state, and to repeal sections 4-18-01, 4-18A-01, and 4-18B-02 of the North Dakota Century Code, relating to definitions for the purpose of dairy regulation.

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

§ 1. **Definitions.)** In this chapter, unless the context or subject matter otherwise requires:

1. "Creamery" shall mean a place where butter is made for commercial purposes;
2. "Cheese factory" shall mean a place where cheese is made for commercial purposes;
3. "Condensery" shall mean a place where condensed or evaporated milk is produced or where milk is changed to a thick liquid by evaporation of a part of the water;
4. "Drying plant" shall mean a place which manufactures dry milk products obtained by the removal of water from milk or milk products;
5. "Ice cream plant" shall mean a place where ice cream is made for commercial purposes;
6. "Ice milk plant" shall mean a place where ice milk is made for commercial purposes;
7. "Cream station" shall mean any place other than a creamery where deliveries of cream are weighed, graded, sampled, tested, or collected for purchase;
8. "Milk plant or bottling plant" shall mean a place where milk or milk products are collected, handled, processed, stored and prepared for distribution;
9. "Distributor" shall mean a person who purchases milk or milk products and transports them to a retail dealer or a consumer;
10. "Peddler" shall mean a person who purchases milk or milk products and sells them directly to consumers at any place other than from a store, stand or other fixed place of business;
11. "Retail" shall mean the sale of milk or milk products directly to the consumer;

12. "Wholesale" shall mean the sale of milk or milk products to a retail dealer for purposes of resale;
13. "Collecting station" shall mean a place where milk or milk products are collected for shipment to a processing or manufacturing plant. This definition shall not be interpreted to include the warehouses, docks, loading platforms or storage rooms of commercial carriers;
14. "Transfer station" shall mean a place where milk or milk products are regularly transferred from one vehicle to another. This definition shall not be interpreted to include the warehouses, docks, loading platforms, or storage rooms of commercial carriers;
15. "Commercial carrier" shall mean a person or business which is subject to regulation by state or federal authorities;
16. "Producer dairy" shall mean a dairy farm which sells milk or cream to a dairy plant for processing or manufacturing;
17. "Milk producer" shall mean a person who owns or controls one or more cows, a part or all of the milk or milk products from which is sold, or offered for sale;
18. "Dairy or dairy farm" shall mean a place where one or more cows are kept, a part or all of the milk or milk products from which is sold or offered for sale;
19. "Producer - processor" or "producer - distributor" shall mean a producer who is also a processor or distributor;
20. "Milk or cream hauler" shall mean a person, other than a milk producer or a dairy plant employee, who transports milk, or milk products to or from a dairy plant or a collecting point;
21. "Milk" shall mean the lacteal secretion, practically free from colostrum, obtained by the complete milking of one or more healthy cows or goats;
22. "Raw milk or raw milk products" shall mean products which have not been treated by the process of pasteurization as defined in this section;
23. "Skim milk or low fat milk" shall mean milk from which a portion of milkfat has been removed;
24. "Nonfat, fat-free, or defatted milk" shall mean skim milk which contains not more than fifteen hundredths of one percent milkfat;
25. "Flavored milk" shall mean a beverage or confection consisting of milk to which has been added a syrup or flavor made from wholesome ingredients;
26. "Flavored drink or flavored dairy drink" shall mean a beverage or confection consisting of skim milk to which

- has been added a syrup or flavor made from wholesome ingredients;
27. "Flavored reconstituted milk" shall mean a flavored milk made from reconstituted milk;
 28. "Flavored reconstituted drink or flavored reconstituted dairy drink" shall mean a flavored drink made from reconstituted skim milk;
 29. "Buttermilk" shall mean a fluid product resulting from the churning of milk or cream;
 30. "Cultured buttermilk" shall mean a fluid product resulting from the souring or treatment, by a lactic acid or other culture, of pasteurized skim milk or pasteurized reconstituted skim milk.
 31. "Cultured milk" shall mean a fluid or semifluid product resulting from the souring or treatment, by a lactic acid or other culture, of pasteurized milk, pasteurized reconstituted milk, or pasteurized concentrated milk;
 32. "Vitamin D milk" shall mean milk the vitamin D content of which has been increased by an approved method;
 33. "Fortified milk and milk products" shall mean milk to which has been added vitamins or minerals in an approved method;
 34. "Reconstituted or recombined milk" shall mean a product which results from the recombining of milk constituents with water, and which complies with the standards for milkfat and solids-not-fat of milk;
 35. "Reconstituted or recombined cream" shall mean a product which results from the combination of dry cream, butter, or milkfat, with cream, milk, skim milk, or water, and which complies with the milkfat standards of cream;
 36. "Reconstituted or recombined skim milk" shall mean a product which results from the recombining of skim milk constituents with water;
 37. "Homogenized milk" shall mean milk which has been treated in such a manner as to insure breakup of the fat globules to such an extent that, after forty-eight hours of quiescent storage, no visible cream separation occurs on the milk, and the fat percentage of the top one hundred milliliters of milk in a quart bottle, or of proportionate volumes in containers of other sizes, does not differ by more than ten percent of itself from the fat percentage of the remaining milk as determined after thorough mixing. The word "milk" shall be interpreted to include homogenized milk;
 38. "Concentrated milk" shall mean a fluid product, unsterilized and unsweetened, resulting from the removal

- of a considerable portion of the water from milk. When recombined with water, in accordance with instructions printed on the container, the resulting product conforms with the standards for milkfat and solids-not-fat of milk;
39. "Concentrated milk products" shall mean and include homogenized concentrated milk, vitamin D concentrated milk, concentrated skim milk, concentrated flavored milk, concentrated flavored drink, and similar concentrated products made from concentrated milk or concentrated skim milk, as the case may be, and which, when recombined with water in accordance with instructions printed on the container, conform with the standards of the corresponding milk products;
 40. "Milk solids or total solids" shall mean the total amount of solids in milk;
 41. "Skim milk solids or solids-not-fat" shall mean the total solids in milk after all fat has been removed;
 42. "Cream" shall mean the fatty liquid or semi-liquid separated from milk, with or without the addition thereto of milk or skim milk;
 43. "Half and half" shall mean a product consisting of a mixture of milk and cream;
 44. "Reconstituted, or recombined, half and half" shall mean a product resulting from the combination of reconstituted milk or reconstituted skim milk with cream or reconstituted cream;
 45. "Whipped cream" shall mean cream to which a harmless gas has been added to cause whipping of the product. It may also contain sugar, a harmless flavoring, or a harmless stabilizer;
 46. "Cottage cheese" shall mean the soft uncured cheese prepared from the curd obtained by adding harmless, lactic-acid-producing bacteria, with or without enzymatic action, to pasteurized skim milk or pasteurized reconstituted skim milk;
 47. "Creamed cottage cheese" shall mean the soft uncured cheese which is prepared by mixing cottage cheese with pasteurized cream, or with a pasteurized mixture of cream and milk or skim milk;
 48. "Cheese" shall mean that product which is usually known by that name which is the sound, solid and ripened product of milk and cream made by coagulating the casein in thereof with rennet or lactic acid, with or without the addition of ripening ferments and seasoning;
 49. "Butter" shall mean that product usually known by that name which is manufactured exclusively from milk,

- cream, or both, with or without common salt, with or without additional coloring matter;
50. "Whipped butter" shall mean butter to which a harmless gas has been added;
 51. "Milk products or dairy products" shall mean and include cream, sour cream, half and half, whipped cream, concentrated milk, concentrated milk products, low fat skim milk, non-fat milk, flavored milk, flavored drink, flavored reconstituted milk, flavored reconstituted drink, buttermilk, cultured buttermilk, cultured milk, vitamin D milk, fortified milk, reconstituted or recombined milk, reconstituted cream, reconstituted skim milk, cottage cheese, creamed cottage cheese, butter, ice cream, ice milk, cheese, unsweetened condensed milk, sweetened condensed milk, evaporated milk, dry buttermilk, dry whole milk, dry skim milk, and any other product made by the addition of any substance to milk or to any of these milk products, and used for similar purposes, and designated as a milk product by the dairy commissioner;
 52. "Filled dairy products" shall mean any milk, cream, or skimmed milk, or any combination thereof, whether or not condensed, evaporated, concentrated, frozen, powdered, dried, or desiccated, or any food product made or manufactured therefrom, to which has been added, or which has been blended or compounded with, any fat or oil other than milkfat so that the resulting product is in imitation or semblance of any dairy product, including but not limited to milk, cream, sour cream, butter cream, skimmed milk, ice cream, whipped cream, flavored milk or skim milk drink, dried or powdered milk, cheese, cream cheese, cottage cheese, creamed cottage cheese, ice cream mix, sherbet, condensed milk, evaporated milk, or concentrated milk; provided, however, that this term shall not be construed to mean or include:
 - a. Any distinctive proprietary food compound not readily mistaken for a dairy product, where such compound is customarily used on the order of a physician and is prepared and designed for medicinal or special dietary use and prominently so labeled;
 - b. Any dairy product flavored with chocolate or cocoa, or the vitamin content of which has been increased, or both, where the fats or oils other than milk fat contained in such product do not exceed the amount of cacao fat naturally present in the chocolate or cocoa used and the food oil, not in excess of one-hundredths percentum of the weight of the finished product, used as a carrier of such vitamins; or
 - c. Oleomargarine;

53. "Overrun" shall mean the increase in volume of a manufactured product due to the incorporation of water, air, or other substance commonly used in the manufacturing processes;
54. "Pasteurization" as applied to milk or skim milk shall mean the process of heating every particle of milk to at least one hundred forty-five degrees Fahrenheit and cream and other milk products to at least one hundred fifty degrees Fahrenheit, and holding it at such temperature continuously for at least thirty minutes; or heating every particle of milk to at least one hundred sixty-one degrees Fahrenheit and cream and other milk products to at least one hundred sixty-six degrees Fahrenheit and holding it at such temperature continuously for at least fifteen seconds in approved and properly operated equipment. When applied to cream for buttermaking, the cream shall be held at a temperature of not less than one hundred sixty-five degrees Fahrenheit for at least thirty minutes or not less than one hundred eighty-five degrees Fahrenheit for at least fifteen seconds. Nothing contained in this definition shall be construed as barring any other process which has been demonstrated to be equally efficient which assures proper pasteurization and keeping quality, which is consistent with the most desirable quality, and which is approved by the dairy commissioner;
55. "Adulterated milk or adulterated milk products" shall mean any milk or cream to which water has been added, or any milk or milk products which contains any unwholesome substance, or which, if defined by state law or by the rules and regulations of the dairy department, does not conform with its definition;
56. "Misbranded milk or misbranded milk products" shall mean any milk or milk product which carries a grade label, unless such grade label has been awarded by the dairy commissioner and not revoked, or which fails to conform in any other respect with the statements on the label;
57. "Dry milk products or powdered milk products" shall mean milk, or milk products dehydrated by evaporation;
58. "Whole milk powder or dry whole milk" shall mean milk which has been dehydrated to dryness;
59. "Skim milk powder or dry skim milk" shall mean skim milk dehydrated to dryness;
60. "Dry buttermilk powder or dry buttermilk" shall mean buttermilk dehydrated to dryness;
61. "Instant dry powder or instant dry milk" shall mean

- milk dehydrated to dryness and which dissolves "instantly" when reconstituted;
62. "Canned milk" shall mean milk sealed in metal cans for sale to consumers. It is commonly a sweetened, condensed and sterile fluid or evaporated milk;
 63. "Ice cream" shall mean the pure, clean, frozen product made from a combination of milk products and one or more of the following ingredients: eggs, sugar, dextrose, corn syrup in liquid or dry form, and honey, with or without flavoring and coloring, and with or without edible gelatin or vegetable stabilizer; and in the manufacture of which freezing has been accompanied by agitation of the ingredients;
 64. "Ice cream mix" shall mean the mix from which ice cream is frozen, made from a combination of milk products and one or more of the following ingredients: eggs, sugar, dextrose, corn syrup in liquid or dry form, and honey, with or without flavoring and coloring, and with or without edible gelatin or vegetable stabilizer;
 65. "Ice milk and ice milk mix" shall mean and include any frozen, or unfrozen substance, mixture, or compound which is not ice cream, milk sherbet, ice, or frozen or frosted malted milk as the same are defined by the department, regardless of the name under which it is sold or offered for sale:
 - a. If the freezing of such substance, mixture or compound is accompanied by agitation of the ingredients thereof;
 - b. If such substance, mixture or compound is made in imitation or semblance of ice cream;
 - c. If such substance, mixture, or compound is prepared or frozen in the same manner as ice cream is customarily prepared or frozen;
 66. "Frozen milk" shall mean milk which has been processed by freezing;
 67. "Condensed milk or evaporated milk" shall mean milk which has been concentrated by removing water with or without the addition of sugar;
 68. "Processing or manufacturing" shall mean the treatment of milk or milk products by pasteurizing, bottling, churning, adding flavors to, freezing, dehydrating, packaging, coagulating, or treating in any manner which changes the natural, physical or chemical properties of the original product;
 69. "Sampling" shall mean a procedure whereby a portion or specimen of milk, or milk products is taken for the purpose of grading or testing;

70. "Composite sample" shall mean a mixture of single samples of milk or milk products taken from different lots or deliveries, the amount taken each time being in proportion to the amount of milk or milk products delivered. Composite samples are usually taken for determining the butterfat content of a product and are tested at a frequency of not less than once every fifteen days. Preservatives may be added;
71. "Grading" shall mean the examination of milk, or milk products by sight, odor, taste, or laboratory analysis, the results of which determine a grade designating the quality of the product;
72. "Testing" shall mean an examination of milk, or milk products by sight, odor, taste, or laboratory analysis to determine the quality, wholesomeness, or composition thereof;
73. "Department" shall mean the dairy department;
74. "Commissioner" shall mean the dairy commissioner;
75. "Agent" shall mean a person who is authorized by another person to act for him in dealing with a third person;
76. "Person" shall mean individuals, firms, partnerships, associations, trusts, estates, corporations, and any and all other business units, devices or arrangements;
77. "C.I.P." shall mean a method of cleaning, commonly called "cleaned-in-place" whereby equipment is cleaned by circulating washing solutions and sanitizers through it and thereby eliminating the necessity of dismantling the equipment;
78. "Approved laboratory" shall mean a laboratory in which the entire facilities and equipment have been approved by the dairy commissioner as being adequate to perform the necessary official tests in accordance with the North Dakota laws and the rules and regulations of the dairy department;
79. "3A Standards" shall mean standards which have been established for certain equipment, utensils, and other items by the 3A Sanitary Standards Committee of the International Association of Milk and Food Sanitarians, Incorporated.

§ 2. **Repeal.**) Sections 4-18-01, 4-18A-01, and 4-18B-02 of the North Dakota Century Code are hereby repealed.

Approved March 1, 1963.

CHAPTER 87

S. B. No. 168

(Ringsak, Miller, Thompson, Mahoney, George, Strinden, Beck)

DAIRY PRODUCTS REGULATIONS

AN ACT

To provide for the licensing, bonding, and regulation of the dairy producing processes and manufacturing industry in the state of North Dakota, to provide standards therefor and to provide for the powers and duties of the dairy department in connection therewith and providing penalties; and to repeal chapters 4-18, 4-18A, and 4-18B, of the North Dakota Century Code, relating to the regulation of dairy products production, manufacturing, and processing in the state of North Dakota.

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

§ 1. Licenses Required — Fees — Terms.) Every producer-processor, peddler, distributor, and every person purchasing milk or milk products for processing or manufacturing, or owning, operating, or leasing a creamery, cheese factory, condensery, drying plant, ice cream plant, ice milk plant, cream station, milk plant, and every other business engaged in the processing or manufacturing of milk or milk products and doing business within this state shall obtain the license required by this section for each such place of business. Application for such license shall be made to the dairy commissioner upon such form as the commissioner may require. Upon making application for license, it is implied that consent is given by the applicant for inspection by the state dairy department. If the commissioner finds that the applicant conforms to the North Dakota laws and the rules and regulations of the dairy department, he shall issue a license for conducting such operations as listed on the application form. If a licensee wishes to conduct operations other than those so listed, he may request that the commissioner approve them, and if the commissioner finds that the proposals are in conformance with North Dakota laws and the rules and regulations of the dairy department, he shall approve them. The license, together with a summary of the North Dakota dairy laws and the rules and regulations of the dairy department shall be posted conspicuously in each place of business so licensed. All licenses issued under this section shall expire on the thirtieth day of June of each year and shall not be transferable. The fee for such licenses shall be ten dollars.

§ 2. Bonding of Purchasers of Dairy Products.) Each applicant for license under section 1, who purchases milk or cream

from a dairy producer, shall file with his application for license a surety bond or certified bank draft held in favor of the dairy department, to an amount equal to the average weekly purchases of such milk or cream bought from dairy producers during the previous year, or if such a determination is impossible or unavailable, the amount required shall be determined by the dairy commissioner, provided that, in such a case, no amount less than \$1,000 shall be accepted. The commissioner shall be named as obligee, but the bond or draft shall be held for the purpose of protecting, and for the benefit of, any dairy producer, and the full and complete payment to the seller for all milk or cream purchased by the licensee; provided, however, that the aggregate liability of the bonding company or the dairy department to all such persons shall in no event exceed the amount of such a bond or draft.

§ 3. Dairy Department to Become Trustee Upon Default in Bond or Certified Bank Draft.) If any licensee defaults in the provisions of any bond or certified bank draft as provided for in section 2, he shall be deemed to be insolvent within the meaning of this chapter. The cause of action for damages upon any such bond or draft, and the amount recovered in any cause of action for the conversion of milk, or milk products, as the case may be, purchased by such licensee while such license is in force and effect, shall constitute a trust fund in the hands of the dairy department for all persons having a cause of action against such licensee on said bond or draft.

§ 4. Application by Dairy Department for Appointment of Trustee—Hearing—Appointment.) Upon the insolvency of a licensee as defined in section 3, the dairy department shall apply to the district court of Burleigh County for the appointment of itself as trustee. Upon such notice to the licensee as the court shall prescribe, but not exceeding ten days, or upon waiver of such notice in writing by the licensee, the court shall proceed to hear and determine such application in a summary manner. If it shall appear to the court that the licensee is insolvent within the meaning of this chapter and that it would be for the best interest of persons holding claims against the licensee for the purchase price of milk or milk products sold to such licensee or to his agent that the dairy department shall execute such trust, the court shall issue an order appointing the dairy department as a trustee, without bond, and the dairy department shall proceed in the manner set out in this chapter without further direction from the court.

§ 5. Notice to File Claims—When Claims Barred.) The dairy department, as trustee, by publication of a notice published once each week for three successive weeks in the official

newspapers of the principal counties in which the licensee operated, shall notify all persons having claims against the licensee to file the same with the department. Any such person who shall fail to file his claim with the department and to surrender to it any receipts which he obtained from such licensee within forty-five days after the last publication of such notice shall be barred from participation upon such claim in any fund marshaled by the department as prescribed in this chapter.

§ 6. Remedy of Claimants—Separate Action by Claimant Permissible.) No claimant shall have a separate cause of action against the licensee's bond or certified bank draft unless the dairy department shall fail or refuse to apply for its own appointment as trustee as provided in this chapter. The provisions of this chapter shall not prohibit any claimant, either independently or in conjunction with other claimants, from pursuing concurrently with the dairy department any other remedy which he or they may have against the licensee, or against the property of the licensee, for the whole of his or their claims or for any deficiency which occurs after payments have been made from the trust fund.

§ 7. Appeal or Compromising of Action by Dairy Department.) The dairy department may prosecute an action for any claims arising under the provisions of this chapter in any court, may appeal from any adverse judgment to the courts of last resort, and may settle and compromise any such action whenever in its judgment it will be for the best interests of the claimants. Upon payment to it of the amount of any such compromise, or of the full amount of any bond or certified bank draft, the dairy department may exonerate the person compromising or paying the same from further liability growing out of such action.

§ 8. Moneys Collected on Claims To Be Deposited in Bank of North Dakota.) All moneys collected and received by the dairy department as trustee shall be deposited in the Bank of North Dakota pending the marshaling of said fund.

§ 9. Dairy Department to File Report Upon Recovery of Trust Fund — Notice to Claimants — Approving or Modifying Report.) Upon recovery of the trust fund, or so much thereof as it is possible to recover or as is necessary to pay all outstanding claims, the dairy department shall file its report in court showing the amount payable upon each claim, after recognizing any proper liens or pledges thereon or assignments thereof or deductions therefrom, with legal interest thereon. If the fund shall prove insufficient to redeem all claims in full, the fund shall be prorated among the claimants in such manner as the department shall deem fair and equit-

able. Thereupon the court shall cite such claimants upon such notice by mail as it shall prescribe to appear upon a day fixed in the notice and show cause why such report shall not be approved and distribution of said fund made as outlined in the report. Upon such hearing the court shall approve such report or modify the same as justice may require and shall issue an order directing the distribution of the fund and discharging the department from its trust.

§ 10. Attorney General to Represent Dairy Department and May Employ Assistants — Dairy Department Need Not Pay Court Costs.) The attorney general shall represent the dairy department in any action or proceeding brought under the provisions of section 3, and he may employ outside legal assistance when he deems it necessary to do so, and may deduct the expense in connection therewith from the trust fund. The department shall not be required to pay any filing fee or other court cost or disbursement in connection with an application for appointment as trustee or with any action brought by it under the provisions of section 3 when such fee, cost, or disbursement accrues to the state or to a county of this state.

§ 11. License Needed to Sample, Grade or Test—Examination—Term—Fee.) No person shall sample, grade, or test milk, or milk products for the purpose of determining the value or grade thereof without obtaining a license from the dairy department. In case of illness or necessary absence, a licensee may appoint a substitute for a period not to exceed six days in one calendar year, unless specific approval for a longer period is obtained from the dairy commissioner. The licensee shall be responsible for the acts of his substitute. An applicant for license shall file an application with the dairy department stating the type of sampling, grading, or testing he wished to be licensed for. Before a license is issued, the applicant must pass a written examination prepared and given by the dairy department, he shall show that he is conversant with the requirements of this chapter which pertain to such sampling, grading, or testing, and must prove by actual demonstration that he is competent and qualified to perform each type of sampling, grading, and testing listed on his application. The dairy commissioner shall then issue a license which shall state the types of sampling, grading or testing which the applicant has proven to be able to perform. Additions may be added to the application form and license, without charge, after the license has been issued, upon the request of the licensee and after he has satisfactorily passed the required examinations for each such addition. All examinations should be given by the dairy department within fifteen days after receiving the application. A licensee need not take any examinations when renewing their license unless his ability at performing such sampling,

grading, or testing is questioned by the dairy commissioner or his assistants. Licenses issued under this section shall expire on December 30th of each year, shall be posted conspicuously in the licensee's place of operation, and shall not be transferable. The fee for the initial license shall be two dollars and renewal fee shall be one dollar. A penalty fee of one dollar shall be added after the thirty-first day of January if renewals are not paid prior to that date.

§ 12. Complaint Upon Violation—Notice of Hearing.) Any person who has information that any person or business licensed under the provisions of this chapter and has violated any of its provisions or any rule or regulation of the dairy department, may file with the dairy commissioner, an affidavit, setting forth any such violations and it is hereby made the duty of all peace officers who have information of any such violations committed by such licensee to file such an affidavit with the dairy department. Such affidavit shall state the facts constituting the violations charged therein with such clarity and certainty that the licensee may be reasonably appraised of the offense alleged to have been committed by him. Upon receipt of any such affidavit, it shall be the duty of the dairy commissioner to set the matter down for hearing at an early date. The dairy commissioner shall send by registered or certified mail to the licensee a copy of the affidavit together with a notice of the time and place of hearing thereon, which date of hearing shall not be less than ten days after such copy of affidavit and notice has been mailed to the licensee.

§ 13. Hearing—Place.) The commissioner of agriculture and labor or the dairy commissioner may conduct any hearing herein provided for. Such hearing shall be held in the county where the licensed person resides or in which the licensed premises is located.

§ 14. Suspension of License.) If, after such hearing, the commissioner of agriculture and labor or the dairy commissioner finds that the violations charged in the affidavit have been established by the evidence, he may order the suspension of the license for a period not to exceed thirty days. If the commissioner of agriculture and labor or the dairy commissioner finds that the licensee has not previously violated the law in the operation of his licensed business, or that no license held by him has previously been suspended, or if it appears to the satisfaction of the commissioner of agriculture and labor or the dairy commissioner that it is reasonable to believe that the licensee will not again commit the offenses charged in the affidavit and that to suspend the license would be unduly severe, then the commissioner of agriculture and labor or the

dairy commissioner may, in his discretion, withhold suspension of the license for such period of time as he deems proper.

Any person, firm or corporation whose license for any place of business is suspended shall not be eligible during the period of such suspension to engage in the purchase, sale, processing, manufacturing, sampling, grading or testing milk, or milk products at such place of business either personally, or indirectly by having a financial interest in such business.

§ 15. Witnesses—Subpoena—Fees.) The commissioner of agriculture and labor or the dairy commissioner shall have the power to subpoena witnesses, to compel their attendance, and to administer oaths. Such witnesses shall be allowed a fee of ten dollars per day, together with their mileage in attending such hearing at the rate of eight and one-half cents per mile, such fees and expenses to be paid by the state treasurer on voucher duly approved by the commissioner of agriculture and labor.

§ 16. Review by the Court.) The action of the commissioner of agriculture or the dairy commissioner in suspending a license may be appealed to the district court of the county and district in which the hearing provided for in section 13 is held by procedure applicable to appeals taken in the manner provided in chapter 28-32 of the title Judicial Procedure, Civil, as now or hereafter amended, except that the commissioner of agriculture and labor or the dairy commissioner order suspending the license may be stayed by the court appealed to upon filing with the clerk of said court a bond approved by and in the amount set by the judge of said district court for the faithful observance of the laws of the state and the rules and regulations of the dairy department relative to the operation of the business licensed during the pendency of the appeal.

§ 17. Sampling and Testing Procedures—Equipment—Supplies.) The procedures, equipment, chemicals, and other apparatus or substances used in the sampling, grading, or testing of milk or milk products shall conform to that described in the latest edition of "Standard Methods for the Examination of Dairy Products" published by the American Public Health Association, Inc., or the "Official Methods of Analysis of the Association of Official Agricultural Chemists" a copy of each being on file in the dairy department. No equipment, chemicals or other apparatus or substance used in the sampling, grading, or testing of milk or milk products which is not in conformance with the requirements of this chapter shall be sold or offered for sale. The dairy commissioner may alter, amend, or prohibit any specific requirement of this section and may approve other sampling, grading, or testing proced-

ures or equipment by issuing rules and regulations pertaining thereto but only after consulting with the director of the state laboratories department, the state health officer, and the chairman of the department of dairy husbandry at the North Dakota State University.

§ 18. Sampling Milk or Cream—Care of Samples.) Every purchaser of milk or cream from a dairy producer shall take a representative sample of at least two ounces from each container in which the milk or cream is delivered. All the milk or cream from one producer may be transferred from the containers in which they are received into an empty dump tank or vat and the sample taken from it. Before emptying any part thereof or adding any substance thereto and before the sample is taken, the milk or cream must be thoroughly mixed. The device used in taking the sample must be clean and the container used to hold the sample must be clean and dry. The containers holding the samples must be kept securely covered and marked or kept by some approved system whereby they will be readily identifiable with the producer whose milk it represents. Records must be kept which readily identify the sample with the weight, butter fat content, and the amount of money paid for said milk or cream. A record of the weight of all cream held over from one shipment to another shall be kept and a representative sample taken, held, and identified as a "hold over sample". All samples must be protected from extreme temperatures and retained at least twenty-four hours after testing has been completed.

§ 19. Composite Samples — Optional — Care of Samples.) Every purchaser of milk from a dairy producer, as an option to the provisions of section 18, may use composite samples which are obtained by taking a representative sample of the milk each time the milk is received at the plant or picked up at the farm for a period not to exceed fifteen days, after thoroughly mixing, and before emptying any part thereof or adding any substance thereto. The device used to take the sample must be clean and the container used to hold the sample must be clean and dry. Approved preservatives may be added. Samples must be held under refrigeration and shall never be kept out of refrigeration for a period any longer than actually necessary in the routine of sampling, grading, or testing. The sample containers must be kept securely covered and marked or kept by some approved system whereby they will be readily identifiable with the producer whose milk the sample represents. Records must be kept which readily identify the sample with the weight, butterfat content, and the amount of money paid for said milk. All milk samples shall be kept for at least twenty-four hours after testing has been completed.

§ 20. Standards for the Production of Cream for Manufacturing Purposes.) Cream for manufacturing purposes shall be separated from the milk of healthy cows and from herds which are kept in conformance with the laws of North Dakota and the rules and regulations of the livestock sanitary board and the state dairy department. Cows shall not be fed any hay, silage, or other feed which contains any unwholesome substance. Milk from cows treated with an antibiotic or other drug shall be excluded from the market for at least seventy-two hours unless specifically stated otherwise on the label of such antibiotic or drug. The cowyards, premises and buildings shall be kept reasonably clean. Utensils, equipment, and other items used in handling the milk or cream shall be kept clean, in good condition and free of rust. New utensils and equipment shall subscribe to 3A standards if such standards have been established for said utensils or equipment. Udders shall be washed before milking. The milk and cream must be protected at all times from contamination with flies, rodents, and sediment, and from extremes of temperature.

§ 21. Grades of Cream and Butterfat Based on Sediment Content and Quality.) All cream sold and purchased shall be graded and paid for on the basis of the following established grades:

1. "Sweet cream" shall have only the fresh natural cream flavor and odor except that it may have a slight feed flavor and odor. Acidity calculated as lactic acid shall not exceed two-tenths of one percent. The sediment pad shall not exceed number three;
2. "Grade one" shall have a fresh natural cream flavor and odor except that it may have a slight to definite feed or slight to definite acid flavor and odor. Acidity calculated as lactic acid shall not exceed seven-tenths of one percent. The sediment pad shall not exceed number four;
3. "Grade two" shall have not more than pronounced feed and definite degrees of stale, acid, weed, bitter, and other unnatural but not offensive flavors and odors. Acidity calculated as lactic acid shall not exceed eight-tenths of one percent. The sediment pad shall not exceed number four;
4. "Unlawful cream" is cream which contains dirt, filth, or other extraneous matter which would make it unfit for human food, or which has an offensive feed, weed, stale, or other unnatural flavor and odor, or is foamy, or cheesy, or shows surface mold, or is putrid or decomposed, or in which the acidity calculated as lactic acid is in excess of eight-tenths of one percent, or in which the sediment pad is in excess of number four;

5. All regulatory officials and all persons, firms, or corporations authorized to purchase cream shall add a harmless vegetable color to all "unlawful cream" offered for sale. Cream so colored shall then be returned to the party offering it for sale. All licensed cream buyers shall keep a record of cream or butterfat purchased as to grade and sediment test. Such record shall be available for inspection for six months from the date of purchase.

The sediment discs shall be rated on the basis of rules and regulations of the dairy department.

§ 22. Sediment Testing Program for Manufacturing Cream.)

The dairy commissioner shall promulgate rules and regulations concerning frequency and operational details of a sediment testing program.

§ 23. Acceptable, Probational and Reject Cream.) The dairy commissioner may promulgate rules and regulations concerning acceptable, probational and reject cream.

§ 24. Cream Station Requirements.) Any room in any cream station where cream is purchased, handled or stored shall be large enough so there will never be undue crowding with normal and expected volumes of business. It shall be separated from other rooms and from the outside by self-closing, tight-fitting doors which may be screen doors if there is no chance of flies, sediment, or other conditions contaminating the cream. All openings from the cream station must be screened during fly season. The floor, walls and ceiling shall be tight, in good repair, and kept clean at all times. Adequate ventilation shall be maintained to minimize odors and condensation. Adequate artificial lights must be provided and those areas where testing is done or washing of cream cans or other equipment or utensils is conducted shall have artificial lighting equivalent to one watt to each square foot of floor area. A cream station must be kept clean and orderly at all times. Cooling facilities must be provided to cool all cream adequately and cream must be protected at all times from flies, rodents, and sediment. Fly and rodent control programs must be practiced when necessary. A cream station shall not be used for any purpose other than the purchase, handling, and storing of milk or milk products except as approved by the dairy commissioner.

§ 25. Purchases of Cream—Prices of Grades To Be Kept Posted.) The prices being offered for butterfat at every cream purchasing establishment shall be properly posted. If a different price is being paid at any one cream purchasing establishment owned, operated, or controlled by the same person, firm,

or corporation for butterfat shipped directly, than is being offered for butterfat delivered at such point, all direct shipment and delivered prices must be so posted. All prices shall be posted in a place where they can be clearly seen from the street. A price different from that so posted shall not be paid and at no time shall a price differential between grades be less than one cent per pound of butterfat.

§ 26. Standards for the Production of Manufacturing Grade Milk.) Milk for manufacturing purposes shall be produced from cows in a healthy condition and shall be from dairy farms where herds are kept in conformance with state laws and the rules and regulations of the North Dakota livestock sanitary board and the dairy department regarding tuberculosis, brucellosis, and other animal diseases. Cows shall be fed properly and shall not be fed any hay, silage, or other feeds which contain any unwholesome substances. Milk from cows treated with an antibiotic or other drug shall be excluded from the market for at least seventy-two hours unless the label thereon specifically states otherwise. The cowyard, loading, and holding areas shall be kept reasonably clean and shall have reasonably good drainage. Milking barns and parlors shall be kept clean, well lighted, and well ventilated. Gutters shall be of concrete or other impervious material. Manure shall be properly disposed of and shall not be accessible to milking cows. Flanks of milk cows shall be kept reasonably clean and udders shall be properly washed before milking.

A milk house of adequate size shall be provided. Interior walls and ceiling shall be tight and constructed of a smooth and easily cleaned material, and shall be finished in an approved manner. The floor shall be of concrete or other impervious, approved, material and shall be sloped and drained to a trapped drain. All openings out of the milk house shall be protected against the entrance of flies, rodents, and sediment, by the use of doors, screens, flaps, fans, or other approved methods. Adequate fly and rodent control methods must be practiced. Doors shall be tight and self-closing. The milk house shall be well ventilated and well lighted with artificial light. Facilities must be provided to cool all milk to fifty degrees Fahrenheit or lower within two hours after milking and must be maintained at that temperature until delivery. If a bulk tank is used, it shall be so installed that there is at least eighteen inches of clearance between the tank and other equipment or walls on the non-working side and end of the tank and twenty-four inches on the working side and end. Twenty-four inches on the non-working side and end and thirty-six inches on the working side and end is strongly recommended. The bulk tank shall not be located over a floor drain or under a ventilator. A two compartment wash vat

large enough to submerge all utensils and an adequate, safe, and clean supply of hot water shall be provided. The milk must be protected from flies, rodents, and sediment at all times. Utensils, equipment, and other items used in handling milk shall be in good condition, free from rust, and properly cleaned, and shall be properly sanitized before use. Garbage and wastes shall be properly disposed of. The milk house must be kept clean and orderly. All new equipment and replacement equipment shall conform to 3A standards if standards have been established for said equipment.

§ 27. Farm Certification.) The dairy commissioner may promulgate rules and regulations concerning farm certification.

§ 28. Grades of Milk for Manufacturing Purposes.) The dairy commissioner may promulgate rules and regulations concerning grades of milk for manufacturing purposes.

§ 29. Milk Grading Program.) The dairy commissioner may promulgate rules and regulations concerning a milk grading program.

§ 30. Rejection and Exclusion of Milk.) The dairy commissioner may promulgate rules and regulations concerning rejection and exclusion of milk.

§ 31. New Producers — Transfer Producers.) The dairy commissioner may promulgate rules and regulations concerning new producers and transfer producers.

§ 32. Dairy Manufacturing or Processing Plant Requirements—Commissioner to Approve New Plants.) All dairy processing or manufacturing plants shall be large enough that there will never be undue crowding with normal and expected volumes of business. Dairy plants shall not be used for any other purpose than the purchase, handling, processing, manufacturing, or storage of milk or milk products unless specific approval is obtained from the dairy commissioner and shall be kept clean and orderly at all times. The premises surrounding a dairy plant shall be kept clean and orderly. All outer doors and all doors leading into rooms not used in normal dairy plant operations shall be solid, tight-fitting, and self-closing. All openings from the plant shall be screened or otherwise effectively protected to prevent the entrance of flies, rodents, and sediment. Floors shall be impervious, in good condition, graded to drain, and kept clean at all times. Walls and ceilings shall have a smooth, washable, light-colored surface and shall be kept clean and in good repair. Dairy plants shall be well ventilated to prevent odors and condensation, and shall be supplied with adequate artificial light. Areas

where testing and washing are done shall have an equivalent of at least one watt of light to each square foot of floor space. All milk and milk product containers and equipment, except singleservice containers, shall be thoroughly cleaned after each usage. All such containers shall be subjected to an effective and approved bactericidal process. After bactericidal treatment, all bottles, cans and other multi-use milk or milk product containers and equipment shall be transported and stored in such a manner as to be protected from contamination. Pasteurized milk or milk products shall not be permitted to come in contact with equipment which has been in contact with unpasteurized or a lower grade of milk or milk products unless such equipment has first been thoroughly cleaned and subjected to an effective and approved bactericidal process. All products, equipment, and utensils used in the plant shall be handled and stored in a safe and sanitary manner. Convenient hand washing facilities shall be provided with hot and cold running water, soap, and approved towels. A common towel is prohibited. The hot and cold water supply shall be adequate and convenient, of a safe and sanitary quality, and shall be in conformance with the state plumbing code. Approved toilet facilities must be provided. No employee shall resume work after using the toilet without washing his hands. A plant must have an adequate and safe sewage disposal system. Wastes shall be properly disposed of in a public sewer, or in containers which are fully covered except when in actual use. All employees working in a dairy plant who come in contact with milk or milk products, or the equipment or utensils used in the handling, processing, or manufacture thereof, shall have medical certificates which assure that they are not afflicted with a communicable disease. All employees who become ill with a communicable disease must obtain the approval of and a medical certificate from a medical doctor before returning to work. Employees shall keep themselves and their apparel as clean as practicable at all times. Smoking or expectorating is not permitted in the part of the plant where milk or milk products are handled, processed, or manufactured. Before the construction of any new dairy manufacturing or processing plant, and before any major remodeling, rebuilding, or renovating plans are carried out, a copy of the plans shall be submitted to the dairy commissioner for his approval. The dairy commissioner shall issue rules and regulations from time to time relative to the various dairy plant operations.

§ 33. Inspection of Dairy Plants Manufacturing or Processing Milk Products.) The dairy commissioner shall promulgate rules and regulations for an inspection program of dairy plants manufacturing or processing milk products.

§ 34. Standards for Manufactured Dairy Products.) The dairy commissioner shall promulgate rules and regulations establishing standards for manufactured dairy products.

§ 35. Standards for Grade A Milk and Milk Products.) The minimum standards for milk and milk products designated as Grade A shall be the same as the minimum requirements of the latest edition of the "Milk Ordinance and Code" and all supplements added thereto which is published by the Public Health Service of the United States Department of Health, Education and Welfare.

§ 36. Quality Records To Be Kept—Term.) Adequate records for testing and grading in conformance with this chapter and the rules and regulations of the dairy department shall be kept by each business sampling, testing, or grading milk or cream for at least six months in a manner approved by the dairy commissioner.

§ 37. Transportation of Milk or Cream for Manufacturing, Processing, or Bottling Purposes—Requirements.) Vehicles used in the transportation of milk or cream must be kept clean. If the vehicle is not enclosed, other means of protecting the milk or cream must be practiced such as covering the containers with a tarp or having individual hoods over each container. Milk or cream shall not be placed near hides, petroleum products, live poultry, or other articles or substances which may cause the milk or cream to become contaminated with flavors or sediment.

§ 38. Transportation of Processed or Manufactured Products.) Vehicles transporting processed or manufactured milk or milk products shall be clean and enclosed, and shall be insulated or refrigerated if the product so being transported requires it. Shipment of milk or milk products through this state are not required to be unloaded under the provisions of this chapter.

§ 39. Adulterated, Impure, or Unwholesome Milk or Milk Products Not To Be Transported, Stored, Sold or Offered for Sale.) Any milk or milk products produced or kept under unclean or unsanitary conditions or produced from animals which are diseased or fed unwholesome, impure, or toxic feed, or milk which tastes from colostrum, shall be deemed impure and unwholesome. No milk or milk product which is deemed to be adulterated, impure, or unwholesome shall be transported, stored, sold, or offered for sale in this state.

§ 40. Sale of Milk or Milk Products in Violation of This Chapter Prohibited.) No person may sell, or offer for sale, any milk or milk product, their imitations or substitutes, which is produced, processed, manufactured, transported, or

stored, in violation of the laws of this state or the rules and regulations of the dairy department, or which do not subscribe to its definition as stated in this chapter or hereafter defined by the dairy commissioner.

§ 41. Overrun Limited.) No person shall permit an overrun in excess of twenty-five percent when manufacturing butter. The reports made to the dairy commissioner under the provisions of section 45 by persons who are engaged in the manufacture of butter shall be competent evidence against the person making the report in a prosecution. If the report shows that during a period of one month or more the person making the report and charged with a violation of this section on a certain day within the period of the report, has had or permitted an average percentage of overrun in excess of twenty-five percent in the manufacture of butter during said period, the report shall be prima facie evidence of a violation of this section.

§ 42. Filled Dairy Products—Declaration of Policy.)

1. Filled dairy products resemble genuine dairy products so closely that they lend themselves readily to substitution for or confusion with such dairy products and in many cases cannot be distinguished from genuine dairy products by the ordinary consumer. The manufacture, sale, exchange, transportation, possession, or offering for sale or exchange of filled dairy products creates a condition conducive to substitution, confusion, deception, and fraud, and one which if permitted to exist tends to interfere with the orderly and fair marketing of foods essential to the well being of the people of this state. It is hereby declared to be the purpose of this section to correct and eliminate the condition above referred to; to protect the public from confusion, fraud, and deception; to prohibit practices inimical to the general welfare; and to promote the orderly and fair marketing of essential foods.
2. It shall be unlawful for any person to manufacture, sell, exchange, transport, possess, or offer for sale or exchange any filled dairy product.

§ 43. Branding Cans, Kegs, Barrels, and Receptacles—Filing Brand—Contents.) All persons engaged in the purchase of milk or cream or in the manufacture of milk products shall adopt a brand or mark of ownership to be stamped or marked on any can, cask, keg, barrel, or other receptacle used in the handling and transportation of any such products, and shall file in the office of the dairy commissioner, without charge, a description of the brand or mark to be used and the use to

be made of any such receptacle. The commissioner shall not register any brand or mark which is identical to or is so similar to any mark or brand already registered that they would be difficult to differentiate between them. The brand or mark so registered may consist of a name, design, mark or marks, or may be some particular color of paint or enamel or other satisfactory mark of ownership. No receptacle branded or marked in conformance with this section shall be in the possession of any person other than the person or his agents to which the brand or mark is registered or a common carrier while transporting such receptacles.

§ 44. Labeling of Milk and Milk Products for Sale at Retail.)

A package, carton, box, or any other container which holds milk or milk products for sale at retail shall not bear any statement, design, or device regarding the product, or ingredients and substances contained therein, which is false, deceiving, misleading, or confusing in any particular, or which infers falsely as to the locality, state, or county of its origin. All containers shall be so labeled as to clearly show the proper and correct net weight, volume, quantity, or size of the products contained therein as the case may be and they must be filled as full as practicable. All containers shall be labeled so as to clearly show the name of the product, its correct grade, if a grade is stated, and whether or not the product is raw, pasteurized, homogenized, reconstituted, or condensed. All containers must be readily identifiable with the dairy plant which last processed, manufactured, or packaged the product either by having the name and location of said plant printed on the container or by registering with the dairy department, a code or mark of identity, which may be a number, name, letter, or any other mark of identity and having this mark plainly painted or stamped on each container. The dairy commissioner shall keep record of all such marks of identity and shall not register any mark which is identical to or is so similar to any mark already registered by another person that it would be difficult to differentiate between them. Lettering on all labels on or attached to all such containers shall be readily legible and all information required by this section shall appear on at least one single panel of all containers. No person, firm, or corporation shall use, in connection or association with the sale, exposure for sale, or advertisement of any substance designed to be used as a substitute for butter, the word "butter", "creamery", or "dairy", except as otherwise required by the laws of this state, nor use the name or representation of any breed of dairy cattle, any combination of such word or words and representation, or any other words, or symbols, or combination thereof commonly used in the sale of butter.

§ 45. Reports—Blanks—When Made—Contents—Penalty.)

The dairy commissioner shall furnish blanks to all licensed creameries, cheese factories, condenseries, drying plants, ice cream plants, ice milk plants, cream stations, milk plants, and producer-distributors for the purpose of making a report of the amount of milk and milk products handled. Each proprietor or manager of such businesses shall report on the last day of June and of December of each year, or within thirty days thereafter, to the commissioner. The pounds of butterfat in cream, the gallons of manufacturing grade milk, and the gallons of bottling milk purchased during the period covered by the report, the aggregate amount paid for each, the number of pounds of butter and cheese, and the number of gallons of ice cream and ice milk manufactured during such period.

§ 46. Dispute Over Test—Official Test Made—By Whom.)

If a disagreement between a seller and a buyer or the legal representatives of both or either arises over the percentage of butterfat contained in any quantity of milk or cream sold or offered for sale at the request of the owner and in his presence, a sample of such milk or cream obtained as provided in sections 18 and 19 and mutually agreed upon by the interested parties as being a representative sample, shall be sealed satisfactorily and mailed by the buyer to the office of the dairy commissioner. There shall accompany each sample a statement giving the name and address of the seller and the buyer of the milk or cream in question, the net weight thereof, the percentage and amount of butterfat contained therein, the price per pound for butterfat, and the amount of money paid or offered in payment for the same and bearing the signature of the seller and the buyer. The commissioner or his agent shall determine the percentage of butterfat contained in the sample and shall make a report of the result in triplicate, the original to be filed in his office, one copy to be sent to the seller, and one to the buyer of the milk or cream. The percentage of butterfat so determined and reported shall constitute the "official butterfat test" and shall be the basis on which final settlement shall be made.

§ 47. Failure to Agree on Sample for Official Test—Procedure To Be Followed.)

Whenever it shall be impossible to secure or mutually agree upon a sample of milk or cream as provided in section 46, then the party selling or offering for sale such milk or cream may require that the buyer or prospective buyer forward to the office of the dairy commissioner the sample taken in compliance with sections 18 and 19. Each sample so forwarded shall be accompanied by a statement in the form of an affidavit from the buyer or prospective buyer, stating that the sample was taken in compliance with the provisions of sections 18 and 19, and the statement also shall

contain all information required in section 46, except that the signature of the seller is not required thereon. Each sample shall be tested and reported on as prescribed in section 46, and the percentage of butterfat so determined and reported shall constitute the "official butterfat test" and shall be the basis on which final settlement shall be made.

§ 48. Standards Considered Minimum — Municipality May Provide More Stringent Standards.) The standards set forth in this chapter shall be considered as minimum standards only. Nothing in this chapter shall be construed to prevent any municipality from providing by ordinance more stringent or comprehensive standards than are contained herein nor is anything in this chapter or in the rules and regulations of the dairy department to be construed to prevent any person, business, or organization concerned with dairying from using standards, inspections, or other practices or procedures which are more stringent or comprehensive.

§ 49. Fees and Penalties Collected To Be Placed in General Fund.) All fees and penalties, collected under this chapter, shall be deposited with the state treasurer and credited to the general fund.

§ 50. Commissioner to Investigate Complaints.) Upon receiving a written statement claiming that any provisions of this chapter or the rules and regulations of the dairy department have been violated, the dairy commissioner shall investigate said complaint as thoroughly and as soon as possible and practicable. If the commissioner finds upon conducting such investigation that the provisions of this chapter or the rules and regulations of the dairy department have been violated, he shall take any action he shall deem appropriate.

§ 51. Disposal of Illegal Milk or Milk Products.) Any milk or cream offered for sale and which is in violation of any provisions of this chapter or the rules and regulations of the dairy department shall be colored with a harmless food coloring and returned to the owner. Any other milk product which is in violation of this chapter or the rules and regulations of the dairy department and has been seized or ordered held by the dairy commissioner shall be disposed of as any other illegal food or drug as outlined in chapter 19-02 of the North Dakota Century Code.

§ 52. Penalty for Violation of Chapter.) Any person violating any of the provisions of this chapter or the rules and regulations of the dairy department for which another penalty is not specifically provided is guilty of a misdemeanor, and shall be punished for each offense by a fine of not less than

twenty-five dollars nor more than one hundred dollars, or by imprisonment for not more than thirty days, or by both such fine and imprisonment.

§ 53. State's Attorney's Endorsement to Complaint Unnecessary Upon Violation of Chapter.) It shall be unnecessary to have the endorsement of the state's attorney to a complaint made for a violation of the provisions of this chapter, but when the justice of the peace or other court before whom a complaint is made shall be satisfied of the truthfulness of such complaint, he shall issue a warrant thereon.

§ 54. Sale of Raw Milk or Raw Milk Products Restricted.) After the effective date of this chapter, no person may begin selling or offering for sale at wholesale any milk or milk products which are not pasteurized unless specific approval is granted by the dairy commissioner or the local health officer.

§ 55. Enforcement.) The dairy commissioner is authorized and directed to administer and supervise the enforcement of this chapter; to provide for such periodic inspections and investigations as he may deem necessary to disclose violations; to receive and provide for the investigation of complaints; and to provide for the institution and prosecution of civil or criminal actions or both. The provisions of this chapter may be enforced by injunction in any court having jurisdiction to grant injunctive relief, and filled dairy products illegally held or otherwise involved in violation of this chapter shall be subject to seizure and disposition in accordance with an appropriate court order.

§ 56. Repeal.) Chapters 4-18, 4-18A, and 4-18B, of the North Dakota Century Code, are hereby repealed.

Approved March 7, 1963.

CHAPTER 88

S. B. No. 308

(Wadeson, Morgan, Kjos, Nelson, Tuff, Sinner, Van Horn)

GRASSHOPPER CONTROL PROGRAMS

AN ACT

Relating to programs for the emergency control of grasshoppers and other insects capable of inflicting substantial damage to agricultural crops, to provide for an advisory committee and to define its duties, and to authorize boards of county commissioners to provide for the control of such insects and levy taxes therefor, and to repeal chapter 4-15 and subdivision c of subsection 3 of section 57-15-06 of the North Dakota Century Code, relating to the grasshopper extermination fund, the control and regulation thereof, and the tax levied for such purpose.

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

§ 1. Advisory Committee—Membership.) The advisory committee on grasshoppers and other insects capable of inflicting substantial damage to agricultural crops, hereinafter to be referred to as the advisory committee, shall consist of the commissioner of agriculture and labor and four members who shall be qualified electors of the state, appointed by the commissioner of agriculture and labor, to serve at the will of the commissioner for terms of four years, arranged so that the term of one member shall expire on December thirty-first of each year. At least one of the members shall be an experienced entomologist from North Dakota State University and the others shall be persons actively engaged in farming or ranching.

§ 2. Advisory Committee Meetings — Quorum — Compensation.) The commissioner of agriculture and labor shall act as chairman of the advisory committee. Meetings shall be held at the call of and at the place designated by the commissioner of agriculture and labor. Three members shall constitute a quorum and no action may be taken without a majority vote of the members present.

§ 3. General Duties of Advisory Committee.) It shall be the duty of the advisory committee to study and evaluate the potential and actual danger that grasshoppers or other insects pose to present or future agricultural crops of the state. Not more than five days after such meeting the advisory committee shall submit to the commissioner of agriculture and labor a full report of its findings, together with recommendations for any control program it may deem necessary. In the event the

advisory committee determines an actual or potential emergency situation exists in any part of any county in the state it shall submit its report and recommendations to the commissioner of agriculture and labor within forty-eight hours after such determination is made. The commissioner shall immediately forward a copy of such report in regard to the emergency situation, together with the advisory committee's recommendations, to the county commissioners of all counties involved.

§ 4. Powers and Duties of County Commissioners.) Within three days after the receipt of such report and recommendations the county commissioners shall meet with the county agent and the commissioner of agriculture and labor, or his representative, to review the report and recommendations. If the board of county commissioners shall find that an actual or potential emergency situation exists, they may immediately proceed to institute a control program as recommended by the advisory committee. In the event more than one county is involved the county commissioners of all counties involved may meet jointly with their county agents and the commissioner of agriculture and labor, or his representative, but findings in regard to such emergency for each county shall be determined separately by the respective boards of county commissioners. The county commissioners shall provide for or promulgate rules and regulations governing the distribution and application of poisons, chemicals and materials.

§ 5. Financing Control Program—Tax Levy.) The board of county commissioners shall determine the portion, if any, of program costs that shall be paid by the county or townships. County costs of the control program shall be paid from moneys in the county emergency fund. In the event the emergency fund is not sufficient to carry out the program the county commissioners may expend moneys from the county general fund and in such event the county commissioners may levy a tax during the following year upon all the taxable property in the county to fully reimburse the county general fund for the amount expended except that such levy shall not exceed one mill on all taxable property in the county. The levy herein authorized shall be in addition to any mill levy limitation provided by law.

§ 6. Repeal.) Chapter 4-15 and subdivision c of subsection 3 of section 57-15-06 of the North Dakota Century Code are hereby repealed.

Approved March 8, 1963.

ALCOHOLIC BEVERAGES

CHAPTER 89

H. B. No. 714
(Aamoth, Gackle, Wilkie)

ALCOHOLIC BEVERAGES, POSSESSION, SALE, CONSUMPTION

AN ACT

To amend and reenact sections 2-05-09, 5-01-04, 5-01-05, 5-01-11, 5-01-14, 5-01-22, 5-01-25, 5-01-26, 5-01-27, 5-01-28, 5-04-03, 12-44-25, 12-44-27, 12-44-28, 12-47-21, 16-12-01, 16-20-13, 16-20-14, 20-01-04.1, and 48-05-06 of the North Dakota Century Code, relating to the possession, sale, consumption and use of alcoholic beverages, providing penalties, and declaring an emergency.

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

§ 1. **Amendment.)** Section 2-05-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2-05-09. Reckless Operation of Aircraft.) No person shall operate an aircraft in the air, or on the ground or water, while under the influence of alcoholic beverages, narcotics, or other habit-forming drug, nor operate an aircraft in the air or on the ground or water, in a careless or reckless manner so as to endanger life or property.

§ 2. **Amendment.)** Section 5-01-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

5-01-04. Possession of Property to Make Alcoholic Beverages is Illegal.) It shall be unlawful to have or possess any property designed for the manufacture of alcoholic beverages intended for use in violating this chapter, or which has been so used, and no property rights shall exist in any such property.

§ 3. **Amendment.)** Section 5-01-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

5-01-05. Disposition of Evidence.) Whenever any sheriff, deputy sheriff, constable, or police officer, or any person acting under authority given in this title and the laws of this state, shall seize any property designed or intended for use in the manufacture of alcoholic beverages, such officer or person,

within five days after the seizing of the same, shall file a certified inventory with the clerk of the district court, or county court having increased jurisdiction, in the county in which the offense has been committed or the proceeding commenced. From and after the date of such filing, such property shall be held by the officer subject to the order of such court, and the officer shall be accountable to such court for the disposition of the same. Upon any violation of this section or any disposition of such property other than by the order of such court, such officer or person shall be held to be in contempt of court and shall be punished therefor in the manner provided by law.

§ 4. **Amendment.)** Section 5-01-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

5-01-11. Person Charged with Intoxication to Answer Questions—Punishment.) Whenever any person shall be arrested for intoxication, the justice of the peace, police magistrate, or county or district judge before whom he shall be brought for trial may cause him to be questioned fully under oath as to where, when, and how he secured the alcoholic beverages causing his intoxication. Testimony so taken shall be reduced to writing and signed by the witness, and one copy thereof forthwith shall be delivered to the state's attorney of the county wherein the same is taken. Any person who fails or refuses to answer fully and truthfully any question that may be put to him on such examination, as to where, when, and how he secured the alcoholic beverages causing his intoxication, is guilty of contempt of court, and shall be punished by a fine of not less than fifty dollars nor more than one hundred dollars, or by imprisonment in the county jail for not less than ten days nor more than thirty days, or by both such fine and imprisonment. When any person is compelled to testify and disclose incriminating testimony against himself in any case under the provisions of this section he shall not be prosecuted in such case.

§ 5. **Amendment.)** Section 5-01-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

5-01-14. Giving or Selling Alcoholic Beverages at Public Sale of Property Prohibited—Punishment.) Any person who at any public sale of property, either real, personal, or mixed, directly or indirectly, in any manner shall give, sell, barter, or furnish, or aid, assist, or abet others in giving, selling, bartering, or furnishing, or by any means whatsoever distributing to or among the persons assembled at such sale, alcoholic beverages as a beverage is guilty of a misdemeanor.

§ 6. **Amendment.)** Section 5-01-22 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

5-01-22. Place Where Alcoholic Beverages Kept, Manufactured, or Sold in Violation of Law a Common Nuisance—Abatement.) Any room, house, building, structure, or place where alcoholic beverages are manufactured, sold, kept for sale, or otherwise employed in violation of any of the provisions of this title, hereby is declared to be a common nuisance, and the same shall be abated in the manner provided in chapter 42-02.

§ 7. **Amendment.)** Section 5-01-25 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

5-01-25. Minors—Possession or Purchase of Alcoholic Beverages Unlawful.) It shall be unlawful for any person under the age of twenty-one years to purchase or have in his or her possession in this state any alcoholic beverage as defined by section 5-01-01.

§ 8. **Amendment.)** Section 5-01-26 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

5-01-26. Purchase of Alcoholic Beverages for Minors Unlawful.) It shall be unlawful for any person to purchase or procure for any person under the age of twenty-one years any alcoholic beverage as herein defined or to furnish or deliver such alcoholic beverage to any such person.

§ 9. **Amendment.)** Section 5-01-27 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

5-01-27. Minors—Unlawful to Furnish Money for Alcoholic Beverages.) It shall be unlawful for any person under the age of twenty-one years to furnish money to any other person for the purpose of purchasing alcoholic beverages.

§ 10. **Amendment.)** Section 5-01-28 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

5-01-28. Minors — False Statement or Evidence Regarding Age.) It shall be unlawful for any person under the age of twenty-one years to make any false statement or to furnish, present, or exhibit any false or fictitious registration card or other document or evidence for the purpose of gaining admission to any place where his or her presence is prohibited or for the purpose of procuring the sale to him or her of alcoholic beverages.

§ 11. **Amendment.)** Section 5-04-03 of the North Dakota Century Code Supplement is hereby amended and reenacted to read as follows:

5-04-03. Wholesaler's Report—Revenue To Go Into General Fund.) Any wholesaler selling to any such carrier shall report such sale as in the case of other sales of intoxicating liquors. The revenue realized under the provisions of this chapter, shall be deposited into the general fund.

§ 12. **Amendment.)** Section 12-44-25 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-44-25. No Alcoholic Beverages Shall Be Allowed Prisoners.) No sheriff or jailer under any pretense, shall give, sell, or deliver to any prisoner for any cause whatever, any alcoholic beverage unless a physician certifies in writing that the health of such person requires it, in which case he may be allowed the quantity prescribed and no more.

§ 13. **Amendment.)** Section 12-44-27 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-44-27. Violation of Sections 12-44-25 and 12-44-26 by Officer—Punishment.) If any sheriff or jailer shall sell or deliver to a prisoner in his custody, or willingly or negligently shall allow a prisoner to have any alcoholic beverage as prohibited in section 12-44-25, or shall place or keep together prisoners of different sex contrary to the provisions of section 12-44-26, he shall be fined for the first offense the sum of twenty-five dollars, and a second conviction shall make him ineligible to hold the office of sheriff, deputy sheriff, jailer, or keeper of any jail for the term of five years.

§ 14. **Amendment.)** Section 12-44-28 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-44-28. Person Other Than Officer Giving Alcoholic Beverages to Prisoner—Misdemeanor.) If any person, other than the sheriff or jailer, shall sell or deliver to any person committed for any cause whatever, any alcoholic beverage or shall have any such alcoholic beverage in his possession in the precincts of any jail with intent to carry or deliver the same to any prisoner confined therein, he shall be guilty of a misdemeanor.

§ 15. **Amendment.)** Section 12-47-21 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-47-21. Alcoholic Beverages Prohibited—Physician's Orders—Use of Tobacco.) No alcoholic beverages shall be brought into the penitentiary or upon the grounds thereof except by the direction in writing of the penitentiary physician noted in the journal of that day. No alcoholic beverages or other article of indulgence shall be allowed any inmate except by order of the physician, such order to be in writing and for a definite and limited period. The warden may make a moderate allowance of tea, coffee, or tobacco to inmates as a reward for industry and good behavior.

§ 16. **Amendment.)** Section 16-12-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-12-01. Election Not To Be Held in Room Where Alcoholic Beverages Sold.) No election shall be held in a room in which alcoholic beverages commonly are sold.

§ 17. **Amendment.)** Section 16-20-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-20-13. Treating by or in Behalf of Candidate—Prohibited.) Any person or candidate who, by himself or by any other person, either before or after an election or while such person or candidate is seeking nomination or election, directly or indirectly, shall give, provide, or pay, wholly or in part, the expense of giving or providing any drink of alcoholic beverage to or for any person:

1. For the purpose or with the intent or hope of influencing that person or any other person to give or refrain from giving his vote at such election to or for any candidate or political party, ticket, or measure before the people;
 2. Because such person or any other person voted or refrained from voting for any candidate or the candidates of any political party or organization or measure before the people;
 3. Because such person or any other person is about to vote or refrain from voting at such election,
- shall be guilty of treating.

§ 18. **Amendment.)** Section 16-20-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-20-14. Elector Accepting Drink of Alcoholic Beverage Guilty of Misdemeanor—Grounds for Challenging Vote.) An elector who accepts any drink of alcoholic beverage in violation of the provisions of section 16-20-13 is guilty of a misdemeanor, and such acceptance shall be a ground for challenge to his vote.

§ 19. **Amendment.)** Section 20-01-04.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

20-01-04.1. Going Afield with Gun or Other Firearm When Intoxicated, Prohibited.) No person shall go afield at any time, with a gun or other firearm, when intoxicated or under the influence of alcoholic beverages. Upon conviction of a person for violating this section, the license to hunt of such person shall become void, and the county justice, county court judge or district judge before whom such conviction is had, shall take the license from the person so convicted, and mark it revoked, and send it to the state game and fish department at the state capitol in Bismarck. If the conviction is reversed on appeal, the license so revoked shall be restored to the defendant. Game wardens, including special wardens, shall have the authority of a general peace officer in the enforcement of this section. Any person violating the provisions of this section, as a first offense, shall be punishable by a fine of not more than ten dollars. Any subsequent offense shall be punishable by a fine of not more than one hundred dollars, and such person so convicted shall be ineligible to be licensed to hunt in the state of North Dakota for a period of two years from and after such conviction.

§ 20. **Amendment.)** Section 48-05-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

48-05-06. Alcoholic Beverages and Drugs in Penal or Charitable Institutions Prohibited.) Every person who shall take, send, or introduce any alcoholic beverage, narcotic, or other habit-forming drug of any kind into any of the buildings or upon any of the premises of any penal or charitable institution of this state, or of any county, city, or village thereof, except upon the express authority of the physician or chief executive officer of such institution, given in writing, is guilty of a misdemeanor and shall be punished by a fine of not 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.

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

Approved March 16, 1963.

CHAPTER 90

H. B. No. 865

(Brown, Maragos, Shablow)

WHOLESALE BEER TAX

AN ACT

To amend and reenact section 5-03-22 of the North Dakota Century Code Supplement, providing for an increase in the tax on the sale at wholesale of beer, malt, and ale containing more than four percent alcohol by weight from four to eight cents per gallon.

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

§ 1. **Amendment.)** Section 5-03-22 of the North Dakota Century Code Supplement is hereby amended and reenacted to read as follows:

5-03-22. Separate and Additional Taxes on the Sale of Liquor—Collection—Penalty.) 1. There hereby is levied and assessed and there shall be collected by the proper officer and paid to the state treasurer for the general fund upon all sales at wholesale of beer, malt, and ale containing more than four percent alcohol by weight, a tax, separate and apart from all other taxes, of eight cents per gallon. There hereby is levied and assessed and there shall be collected and paid to the state treasurer for the general fund upon all sales at wholesale of alcoholic beverages, other than malt beverages, containing more than four percent of alcohol by weight but less than twenty-four percent of alcohol by weight, an additional tax, separate and apart from all other taxes, equal to the sum of twenty cents per gallon, and upon all sales at wholesale of alcoholic beverages containing twenty-four percent or more of alcohol by weight, an additional tax, separate and apart from all other taxes, equal to the sum of eighty cents per gallon. All such taxes shall be added to the sale price of merchandise sold to retailers and shall be collected as existing wholesale liquor transaction taxes are or hereafter may be collected, subject to similar accounting procedures, but no part of the revenue from the taxes hereby imposed shall ever be used as such to satisfy any statutory allocation of malt beverage or liquor tax revenues; provided, however, that this section and the provisions thereof shall expire by their own limitation on July 1, 1967.

2. Any person violating any of the provisions of this section shall be guilty of a misdemeanor.

Approved March 4, 1963.

CHAPTER 91

S. B. No. 35
(Baeverstad, Luick, Becker)
(From LRC Study)

NONALCOHOLIC COMMODITIES TAX

AN ACT

To create and enact section 5-03-26 of the North Dakota Century Code, providing for the imposition of an excise tax upon the sale or the possession of, nonalcoholic commodities suitable for use in mixed drinks, to retail dealers engaged in the business of selling alcoholic beverages at retail in lieu of retail sales taxes and providing for the collection, administration and allocation of such tax, and imposing a penalty.

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

§ 1.) Section 5-03-26 of the North Dakota Century Code is hereby created and enacted to read as follows:

5-03-26. Nonalcoholic Commodities Suitable for Use in Mixed Drinks—Excise Tax on Wholesale Price—Reports—Collection—Penalty.) 1. In this section, unless the context or subject matter otherwise requires:

- a. "Nonalcoholic commodities" means any commodity suitable for use in a mixed drink including, but not limited to, all beverages containing less than one-half of one percent of alcohol by volume;
- b. "Retail dealer" is any person engaged in the business of selling alcoholic beverages at retail;
- c. "Wholesale dealer" is any person engaged in making sales of nonalcoholic commodities at wholesale to a retail dealer;
- d. "Wholesale price" is the price charged a retail dealer by a wholesale dealer for nonalcoholic commodities sold, less discounts allowed and taken.

2. An excise tax at the rate of three percent of the wholesale price is hereby levied and assessed upon all sales of nonalcoholic commodities sold by a wholesale dealer to a retail dealer. The proceeds of such tax, together with such forms of return and in accordance with such rules and regulations as the tax commissioner may prescribe, shall be remitted to the tax commissioner by the retail dealer on a calendar quarterly basis on or before the end of the month following the quarterly period for which such tax is paid.

3. An excise tax at the rate of three percent of the wholesale price is hereby levied and assessed upon all nonalcoholic

commodities purchased in another state and brought into this state by a retail dealer for the purpose of sale at retail. The proceeds of such tax, together with such forms of return and in accordance with such rules and regulations as the tax commissioner may prescribe, shall be remitted to the tax commissioner by the retail dealer on a calendar quarterly basis on or before the end of the month following the quarterly period for which such tax is paid. If such nonalcoholic commodities have previously been subjected to a tax by any other state in respect to their sale in an amount less than the tax imposed by this section, the provisions of this subsection shall apply, but at a rate measured by the difference only between the rate fixed in this section and the rate by which the previous tax upon the sale was computed. If the tax imposed in such other state is three percent of the wholesale price or more, then no tax shall be due on such articles. The provisions of this subsection, allowing a credit for a similar tax paid in another state, shall apply only if such other state allows a tax credit with respect to the excise tax on such nonalcoholic commodities imposed by this state which is substantially similar to the credit allowed by this subsection.

4. Any person failing to file any prescribed forms of return or to pay any tax within the time required by this section shall be subject to a penalty of five percent of the amount of tax due but not less than five dollars, plus one percent of such tax for each month after such return was required to be filed or such tax became due. The tax commissioner, if satisfied that the delay was excusable, may remit all or any part of such penalty. Such penalty shall be paid to the tax commissioner and disposed of in the same manner as are other receipts under this section.

5. The retail sale of any commodities taxable under the provisions of this section shall not be subject to any sales or use taxes imposed by chapters 57-39 and 57-40.

6. All moneys received by the tax commissioner under the provisions of this section shall be transmitted to the state treasurer at the end of each month and deposited in the state treasury to the credit of the general fund.

7. Any person knowingly or willfully violating the provisions of this section shall be guilty of a misdemeanor and, for each such offense, shall be punished by a fine of not to exceed five hundred dollars or by imprisonment in the county jail for not to exceed one year, or by both such fine and imprisonment.

Approved March 18, 1963.

CHAPTER 92

H. B. No. 817
(Wilkie, Aamoth)

MINORS PROHIBITED IN BARS

AN ACT

To amend and reenact section 5-05-04 of the North Dakota Century Code, relating to the prohibition of minors in any room wherein a bar is operated for the purpose of selling or distributing alcoholic beverages.

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

§ 1. **Amendment.)** Section 5-05-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

5-05-04. Separation of Bar—Minors Prohibited.) No licensee authorized to sell alcoholic beverages shall operate or maintain a bar on or over which alcoholic beverages are sold, furnished, or distributed in any room or rooms wherein food is served at tables for consumption on the premises. It shall be unlawful for any person under twenty-one years of age to be in or to be permitted in any room wherein is operated or maintained a bar on or over which alcoholic beverages are sold, furnished, or distributed.

Approved March 9, 1963.

BANKS AND BANKING

CHAPTER 93

H. B. No. 854
(Aamoth, Tough, Gackle)

BANK AND TRUST COMPANY ORGANIZATION

AN ACT

To amend and reenact sections 6-01-02, 6-02-01, 6-05-01, and 6-05-02 of the North Dakota Century Code, relating to definitions and compliance with laws for organization of banks and trust companies and declaring an emergency.

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

§ 1. **Amendment.)** Section 6-01-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-01-02. Definitions.) Terms used in this title, unless the context otherwise plainly requires, are defined as follows:

1. "Banking department", the state department of banking;
2. "State banking association", any corporation organized under the laws of this state covering state banking associations or savings banks, and all corporations, partnerships, firms, or associations whose business in whole or in part consists of the taking of money on deposit, excepting national banks, trust companies, and the Bank of North Dakota;
3. "Banking institution", any bank, trust company, bank and trust company, stock savings bank, or mutual savings bank organized under the laws of this state;
4. "Trust company", any corporation formed for the purpose of transacting business as an annuity, safe deposit, surety, or trust company;
5. "Mutual investment corporation", and "mutual savings corporation", corporations organized to engage in the investment or savings business, but having no capital stock or a nominal capital stock;
6. "Credit union", a corporate cooperative association organized for the purpose of making loans to its members for provident or productive purposes;
7. "Receiving and paying stations", a place of business maintained by a banking institution separate from its

main banking house within the county of its domicile or in an adjoining county for the purpose of receiving and paying out deposits, issuing drafts, travelers' checks, and similar instruments, handling and making collections, and cashing checks and drafts;

8. "Banking", the business of receiving deposits, making loans, discounting commercial paper, issuing drafts, travelers' checks, and similar instruments, handling and making collections, and cashing checks and drafts, or buying and selling exchange;
9. "Bank", any association, firm, or corporation engaged in the business of banking.

§ 2. **Amendment.)** Section 6-02-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-02-01. Compliance with Chapters Required—Penalty for Noncompliance.) No person, firm, company, copartnership, or corporation, either domestic or foreign, not organized under this chapter, or chapters 6-04 or 6-05, excepting only national banking corporations and the Bank of North Dakota, shall make use of or display in connection with its business, in signs, letterheads, advertising, or in any other way, such words as "bank", "banker", "banking", "savings bank", or any other word or words of like import, nor shall any person or concern do or perform anything in the nature of the business of a bank or savings bank until and unless such business is regularly organized or authorized under this chapter or chapters 6-04 or 6-05. If any firm or corporation organized prior to July 1, 1931, shall have been granted a charter permitting it to use any word, words or title contrary to the intent of this section, and by reason of its rights under such charter the provisions of this section may not be enforced against it during the life of such charter, no renewal charter shall be granted to such person, firm, or corporation permitting the continuance of the use of such word, words, or title contrary to or in violation of this section. Any person, firm, or corporation which, by reason of an existing charter right under any law or statute in effect prior to July 1, 1931, may be held by the courts not to be affected by this section and which therefore refuses to comply with the provisions hereof, during the period of noncompliance, prominently and continuously, shall display in plain, legible, and clearly discernible lettering on all of its signs, stationery, circulars, and advertising, and in all of its printed or written matter the following words and language: "NOT UNDER THE SUPERVISION OF THE STATE BANKING BOARD OR THE STATE BANK EXAMINER", and such language shall be displayed as prominently thereon as is other

matter therein. Any person, firm, company, copartnership, or corporation, domestic or foreign, violating any provision of this section shall forfeit to the state one hundred dollars for every day or part thereof during which such violation continues. In an action brought by the state examiner or any aggrieved person, the court may issue an injunction restraining any such person, firm, company, copartnership, or corporation from further using such words, terms, or phrases in violation of this section or from further transacting business in such way or manner as to lead the public to believe that its business is in whole or in part of the nature of a bank or savings bank, or that it is under the supervision of the state banking board or the state examiner. Any trust company duly granted a charter to engage in banking business upon compliance with this chapter, shall be subject to the state banking board in its banking operations as is the case for other chartered banks, and all the laws relating to banks in this title are thereafter applicable. Any trust company, hereafter organized which has not secured a hearing and determination by the state bank board under the provisions of sections 6-02-05 and 6-02-06, shall not engage in banking business except for the power provided under chapter 6-05.

§ 3. **Amendment.)** Section 6-05-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-05-01. Who May Form—Corporation Has Perpetual Existence.) Any number of persons, not less than nine, at least three of whom must be residents of this state, may associate themselves and form a corporation for the purpose of transacting business as an annuity, safe deposit, surety, and trust company, upon complying with the provisions of this chapter, and any company so formed shall be entitled to the rights and privileges, and shall be subject to the duties and obligations provided in this chapter, and its existence shall be perpetual. A bank organized under chapter 6-02 shall be entitled to the powers and duties of this chapter upon approval of the state banking board, compliance with the deposit requirements of this chapter, and amendment of its articles of incorporation to comply with the provisions of this chapter.

§ 4. **Amendment.)** Section 6-05-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-05-02. Compliance with Chapter Required — Penalty for Noncompliance.) No person, firm, company, copartnership, or corporation, either domestic or foreign, not organized under this chapter nor subject to its provisions, except only national banking corporations, state banks authorized under this chap-

ter, and the Bank of North Dakota, shall make use of or display in connection with its business, in signs, letterheads, advertising, or in any other way, such words as "trust", "trust company", or any other word or words of like import, nor shall any person or concern do or perform anything in the nature of the business of a trust company until and unless such business is regularly organized and authorized under this chapter. If any firm or corporation organized prior to July 1, 1931, shall have been granted a charter permitting it to use any word, words, or title contrary to the intent of this section, and by reason of its rights under such charter, the provisions of this section may not be enforced against it during the life of such charter. However, no renewal charter shall be granted to such person, firm, or corporation permitting the continuance of the use of such word, words, or title contrary to or in violation of this section. Any person, firm, or corporation which, by reason of an existing charter right under any law or statute in effect prior to July 1, 1931, may be held by the courts not to be affected by this section and which therefore refuses to comply with the provisions of this section, during the period of noncompliance, shall display, prominently and continuously in plain, legible, and clearly discernible lettering on all of its signs, stationery, circulars, and advertising, and in all of its printed or written matter the following words and language: "NOT UNDER THE SUPERVISION OF THE STATE BANKING BOARD OR THE STATE EXAMINER", and such language shall be displayed thereon as prominently as any other matter therein. Any person, firm, company, copartnership, or corporation, domestic or foreign, violating any provision of this section, shall forfeit to the state one hundred dollars for every day or part thereof during which such violation continues. In an action brought by the state examiner or any aggrieved person, the court may issue an injunction restraining such person, firm, company, copartnership, or corporation from further using such words, terms, or phrases in violation of this section or from further transacting business in such a way or manner as to lead the public to believe that its business is in whole or in part of the nature of a trust company, or that it is under the supervision of the state banking board or the state examiner.

§ 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 21, 1963.

CHAPTER 94

H. B. No. 635

(Frank, Schaffer, Mosal, Streibel, Winge, Weber)

AUDITS OF MUNICIPALITIES

AN ACT

To amend and reenact section 6-01-21.2 of the North Dakota Century Code, relating to examinations, fees, alternative audits, of municipal agencies, park boards and school districts.

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

§ 1. **Amendment.**) Section 6-01-21.2 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-01-21.2. Municipal Agencies, Park Boards, School Districts—Examinations—Fees—Alternative Audits.) The state examiner, by his duly appointed deputy examiners or other authorized agents, shall examine the official financial records, accounts, and proceedings of the following governing bodies and officials of the following political subdivisions:

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

Such examinations shall be conducted at least once each year in political subdivisions having populations in excess of five hundred according to the latest federal decennial census, and at least once every three years in political subdivisions having populations of five hundred or less. The firemen's relief association shall be examined at least once each year. Examinations may be conducted at more frequent intervals if the state examiner, in his discretion, deems it advisable.

The governing board of any such city, park board, village, or school district may provide for an audit annually by a certified public accountant, and such audit report shall be in such form and contain such information as the state examiner may require in addition to other information, and in such case the state examiner shall not be required to make the examination heretofore provided for in this section. Two copies of such audit reports shall be filed with the state examiner and one copy with the state bonding fund by the certified public

accountant making such audit at the same time that the report of audit is delivered to said city, park board, village, or school district, and the governing board of such subdivision shall not pay the fee for such audit until evidence of such filing is furnished. The state examiner may require the correction of any irregularities, objectionable accounting procedures, or illegal actions on the part of the governing boards and officers of such subdivisions disclosed by such audit reports, and failure to make such corrections shall result in examinations being resumed by the state examiner until such irregularities, procedures or illegal actions are corrected, and fees for such examinations, so resumed, shall be paid in accordance with this section.

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

Approved March 4, 1963.

CHAPTER 95

S. B. No. 178

(Ringsak, Sorlie, Bopp, Wadeson, Thompson)

REAL ESTATE LOAN LIMITS

AN ACT

To amend and reenact section 6-03-05 of the North Dakota Century Code, relating to the limitation of bank loans on real estate.

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

§ 1. **Amendment.**) Section 6-03-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-03-05. Loans on Real Estate — Regulation — Limitation — Amortized Loans Provided For.) No association shall own or carry among its assets at any one time loans dependent pri-

marily upon real estate security in an aggregate sum in excess of the amount of the capital stock of such association paid in and unimpaired plus the amount of its unimpaired surplus fund, or in excess of sixty-six and two-thirds percent of the amount of its time and savings deposits, whichever is the greater, and then only upon first mortgages constituting first liens upon such real estate not exceeding fifty percent of the actual cash value of the property mortgaged. Before any such loan is made the board of directors shall appoint from among its members a committee which shall make actual inspection of the security offered and shall appraise both the land and the improvements thereon, if any, and shall report to the board of directors, in writing, the results of the appraisal together with any other facts relating to such proposed loan and proposed security as will best enable the board to determine if the loan shall be granted. Such written report shall be made a permanent record in the bank's files and shall be made available to the state examiner. No director shall act as an appraiser of his own property nor of property offered as security for loans the proceeds of which are to be used for his benefit. No such loan shall be made for a longer period than five years. Provided, however, any such loan may be made in an amount not to exceed sixty-six and two-thirds percent of the actual cash value of the real estate mortgaged and for a term not longer than ten years if the loan is secured by an amortized mortgage under the terms of which the installment payments are sufficient to amortize forty percent or more of the principal of the loan within a period of not more than ten years.

Any such loan may be made in an amount not to exceed seventy-five percent of the appraised value of the real estate offered as security and for a term not longer than twenty years if the loan is secured by an amortized mortgage, deed of trust, or other such instrument under the terms of which the installment payments are sufficient to amortize the entire principal of the loan within a period of not more than twenty years.

Approved March 21, 1963.

CHAPTER 96

S. B. No. 254

(George, Solberg, Longmire, Saumur)

DRIVE-IN BANK FACILITIES

AN ACT

To provide for separate drive-in facilities for banks.

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

§ 1. Separate Drive-in Facility Authorized.) Every bank organized under chapter 6-02 of the North Dakota Century Code, and under the supervision of the state banking board, and any national bank doing business in this state, may, upon compliance with this Act, maintain and operate separate and apart from its banking house one facility for drive-in and walk-up service, whereat the services rendered shall be limited to receiving deposits of every kind and nature, cashing checks or orders to pay, issuing exchange, and receiving payments payable at the bank.

§ 2. Further Limitations Upon Facility.) No bank may maintain or operate under this Act:

1. More than one such facility either attached to or separate and apart from its banking house at the same time, except facilities required by the United States government to be maintained by it as financial agent of the government on government reservations solely for military and other government personnel, provided, however, that nothing in this section shall be construed to authorize any bank to establish or maintain such facilities as financial agent of the government on government reservations; or
2. Such a facility located more than fifteen hundred feet from its banking house; or
3. Such facility separate and apart from its banking house without first having obtained the approval of the state banking board.

§ 3. Facts Considered for Approval.) Whenever any bank desires to maintain and operate a facility separate and apart from its banking house, pursuant to this Act, or to move a facility previously established to another location, it shall apply to the state banking board for such authority and provide the board with such relevant information as the board may reasonably request. In determining whether or not to

approve the application for such facility, the banking board shall take into consideration the following facts:

1. The convenience, needs and welfare of the people of the community and area served;
2. The financial strength of the bank in relation to the cost of establishing and maintaining such separate facility; and
3. Whether other banks will be seriously injured by the approval of the application.

§ 4. **Effect of Authority.**) Nothing in this Act shall be deemed to authorize the maintenance or operation of a branch bank, but a facility authorized hereunder may be supplementary or in addition to paying and receiving stations permitted under section 6-03-14 of the North Dakota Century Code. National banking associations located in this state shall have the same, but no greater right by virtue of this Act as banks organized under the laws of this state.

Approved March 21, 1963.

CHAPTER 97

S. B. No. 248

(George)

PAYING AND RECEIVING STATIONS

AN ACT

To amend and reenact section 6-03-14 of the North Dakota Century Code, relating to paying and receiving stations, and declaring an emergency.

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

§ 1. **Amendment.**) Section 6-03-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-03-14. Paying and Receiving Stations Authorized.) Any banking institution may establish and maintain within the county in which the home office of the applicant banking institution is located, or in any adjoining county, subject to the approval and supervision of the state banking board, a receiving and paying station in any city, town, or village organized under the laws of this state not having an established banking institution located therein. Provided, however, this limitation shall not apply to any banking institution which

has already received a permit for the construction of such a receiving and paying station. No additional capital shall be required for the operation of such station. This section shall not be construed as committing this state in any manner to a policy of permitting branch banking.

§ 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 21, 1963.

CHAPTER 98

H. B. No. 746

(Burk, Leahy, Dick, Vinje)

BANKING SERVICE CORPORATIONS

AN ACT

To authorize banks to invest in corporations providing bank services.

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

§ 1. Bank Investment in Service Corporation.) Subject to the approval of the state banking board, any bank may invest in stocks, bonds, debentures, or other obligations of any North Dakota corporation having its principal place of business in the state and operated exclusively for the purpose of providing for such bank and one or more other banks, bank services which the banks would otherwise be required to provide for on an individual bank basis. The term bank services in this Act means services such as check and deposit sorting and posting, computation and posting of interest and other credits and charges, preparation and mailing of checks, statements, notices and similar items, or any other clerical bookkeeping, accounting, statistical, or similar functions performed by a bank.

Approved March 16, 1963.

CHAPTER 99

S. B. No. 303
(Brooks)

TRUST FUND INVESTMENTS

AN ACT

To amend and reenact section 6-05-15 of the North Dakota Century Code, relating to investment of trust funds.

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

§ 1. Amendment.) Section 6-05-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-05-15. Investment of Trust Funds.) Any sum of money, which shall be collected or received by any such corporation in its trust capacity, and which shall not be required for the purposes of such trust, or which is not to be accounted for within one year from the date of such collection, receipt, or deposit, shall be invested by the corporation as soon as practicable. At least fifteen percent of the funds available for investment shall be invested in bonds of the United States.

In acquiring, investing, reinvesting, exchanging, retaining, selling, and managing the property for the benefit of another, the trustee shall exercise the judgment and care under the circumstances then prevailing, which men of prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital. Within the limitations of the foregoing standard, the trustee is authorized to acquire and retain every kind of property real, personal or mixed, and every kind of investment, specifically including but not by way of limitation, bonds, debentures, and other corporate obligations and stocks, preferred or common, including investment trusts, which men of prudence, discretion, and intelligence acquire or retain for their own account, and within the limitations of the foregoing standard, the trustee may retain property properly acquired without limitation as to time and without regard to its suitability for original purchase. The net interest and profits of such investments, less the reasonable charges and disbursements of the corporation in connection therewith, shall be accounted for and paid over as a part of such trust. The net accumulations of such interest and profits likewise shall be invested and

reinvested as a part of the principal, and such investments shall be received and allowed in the settlement of the trust.

Approved March 21, 1963.

CHAPTER 100

H. B. No. 577
(Leahy, Aamoth)

CORPORATE TRUSTEE INVESTMENTS

AN ACT

To amend and reenact section 6-05-15.1 of the North Dakota Century Code, relating to the commingling of trust funds.

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

§ 1. **Amendment.)** Section 6-05-15.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-05-15.1. Corporate Trustee—Investment of Trust Funds—Commingling Funds.) Any trust company may invest all moneys received by it in authorized securities, and shall be responsible to the owner or cestui que trust for the validity, regularity, quality, value, and genuineness of these investments and securities so made, and for the safekeeping of the securities and evidences thereof. When special directions are given in any order, judgment, decree, will, or other written instrument as to the particular manner or the particular class or kind of securities or property in which any investment shall be made, it shall follow such directions, and in such case it shall not be further responsible by reason of the performance of such trust. In all other cases it may invest funds held in any trust capacity in authorized securities using its best judgment in the selection thereof, and shall be responsible for the validity, regularity, quality, and value thereof at the time made, and for their safekeeping. Whether it be the sole trustee or one of two or more cotrustees, it may invest in fractional parts of, as well as in whole, securities, or may commingle funds for investment. If it invests in fractional parts of securities or commingles funds for investment, all of the fractional parts of such securities, or the whole of the funds so commingled shall be owned and held by the trust company in its several trust capacities, and it shall be liable for the administration thereof in all respects as though separately invested; provided, that not more than fifty thousand dollars,

at the cost price of such investments, shall be so invested for any one trust at any one time in fractional parts or as commingled funds for investment, unless the authority to invest in fractional parts or as commingled funds be given in the order, judgment, decree, will, or other written instrument governing such trust. Funds so commingled for investment shall be designated collectively as a common trust fund. It may, in its discretion, retain and continue any investment and security or securities coming into its possession in any fiduciary capacity. The foregoing shall apply as well whether a corporation trustee is acting alone or with an individual co-trustee.

Approved March 5, 1963.

BUILDING AND LOAN ASSOCIATIONS

CHAPTER 101

S. B. No. 129
(Morgan, Kjos, Mahoney)

REAL ESTATE LOAN LIMITS

AN ACT

To amend subsection 7 of section 7-02-08 of the North Dakota Century Code, permitting savings and loan associations to make business loans up to sixty percent of the cash value of the property mortgaged.

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

§ 1. Amendment.) Subsection 7 of section 7-02-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

7. To make loans to members on the security of the shares of the association, and also on their notes secured by first mortgages constituting first liens on improved real estate wholly or in part for dwelling purposes. Loans may be made on business property in an aggregate sum not in excess of twenty percent of the total share capital of the association and such business loans shall not exceed sixty percent of the actual cash value of the property mortgaged;

Approved March 21, 1963.

CORPORATIONS

CHAPTER 102

H. B. No. 721
(Burk, Miller)

ISSUANCE AND SALE OF SECURITIES

AN ACT

To amend and reenact subsection 7 of section 10-04-05, subsection 5 of section 10-04-06, subsection 3 of section 10-04-10, and section 10-04-18 of the North Dakota Century Code, relating to the supervision of issue and sale of securities.

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

§ 1. Amendment.) Subsection 7 of section 10-04-05 of the North Dakota Century Code Supplement is hereby amended and reenacted to read as follows:

7. Commercial paper maturing in not more than twelve months from date of issue;

§ 2. Amendment.) Subsection 5 of section 10-04-06 of the North Dakota Century Code Supplement is hereby amended and reenacted to read as follows:

5. The sale of securities to any bank, savings bank, savings institution, trust company, insurance company, registered dealer, or any corporation, organization or association, a principal part of whose business consists of the buying of securities;

§ 3. Amendment.) Subsection 3 of section 10-04-10 of the North Dakota Century Code Supplement is hereby amended and reenacted to read as follows:

3. Investment Counsel. No person, partnership, corporation, or association shall offer for sale or sell any investment service in this state except as provided by the provisions of this subsection. Application for registration as an investment counsel may be made by any person. Such application for registration shall be made in writing in a form prescribed by the commissioner, shall be signed by the applicant, duly verified by oath and shall be filed in the office of commissioner and shall contain the following information:

- a. Name, residence, and business address of the applicant.
- b. If the applicant is a corporation or association, give full information as to agents, partners, and managing officers.

- c. Statement showing each individual named is of good repute and possesses essential experience and education.
- d. The plan and character of business, and the proposed method of operation.
- e. Such other information as may be required.

If the applicant is a foreign corporation or association, it shall file with its application:

1. A copy of its articles.
2. Certificate showing authorization to transact business.

The commissioner may also require such additional information as to the previous history, record, or association of the applicant, its officers, directors, employees, members, partners, managers, or trustees, as he may deem necessary to establish whether or not the applicant should be registered as an investment counsel under the provisions of this chapter.

There shall be filed with such application:

- a. A written consent to the service of process upon the commissioner in actions against such investment counsel conforming to the requirements of section 10-04-14; and
- b. Payment of the prescribed registration fee, which shall be returned if registration is refused; and
- c. A financial statement or balance sheet, prepared in accordance with standard accounting practice showing the financial condition of the applicant as of the most recent practicable date prior to the date of such application, such financial statement or balance sheet to be certified to by an independent certified public accountant or by a responsible officer or member of said applicant.

When an applicant has fully complied with the provisions of this subsection the commissioner may register such applicant as an investment counsel unless he shall find that the applicant is not of good business reputation, or is not solvent.

No investment counsel may be granted a dealer's or salesman's registration.

An investment counsel shall not take, hold or exercise any power of attorney on behalf of its clients, either to purchase or sell securities, or to collect or pay any consideration for securities of its clients.

An investment counsel shall not receive or hold any securities of its clients or receive or hold any consideration for such securities of its clients. He shall be limited to giving advice to buy or sell securities, but shall take no part, directly or indirectly, in consummating the purchase or sale of securi-

ties of its clients. A registrant as investment counsel shall notify the commissioner of any change of address.

§ 4. **Amendment.)** Section 10-04-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

10-04-18. Penalties.) Any person who shall willfully violate any provision of this chapter or who willfully violates any rule or order of the commissioner made pursuant to the provisions of this chapter, or who shall engage in any act, practice, or transaction declared by any provision of this chapter to be unlawful shall upon conviction thereof be sentenced to pay a fine of not less than five hundred dollars nor more than five thousand dollars or imprisonment in the penitentiary for not less than one year nor more than five years, or in the county jail for not less than three months nor more than one year, or both such fine and imprisonment.

Approved March 18, 1963.

CHAPTER 103

S. B. No. 282
(Wartner)

CHANGE IN REGISTERED OFFICE OR AGENT

AN ACT

To create and enact subsection 20 of section 10-23-04 and to amend and reenact sections 10-19-10 and 10-22-09 of the North Dakota Century Code, relating to the change of registered office or registered agent for domestic and foreign corporations and establishing a fee for the filing of such change.

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

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

10-19-10. Change of Registered Office or Registered Agent.)

1. A corporation may change its registered office or change its registered agent, or both, upon filing in the office of the secretary of state a statement setting forth:

- A. The name of the corporation;
- B. The address of its then registered office;
- C. If the address of its registered office be changed, the address to which the registered office is to be changed;
- D. The name of its then registered agent;

- E. If its registered agent be changed, the name of its successor registered agent;
- F. That the address of its registered office and the address of the business office of its registered agent, as changed, will be identical; and
- G. That such change was authorized by resolution duly adopted by its board of directors.

Such statement shall be executed by the corporation by its president or a vice president, and verified by him, and delivered to the secretary of state. If a registered agent changes his or its business address to a place within the same county he or it may change such address and the address of the registered office of any corporations of which he or it is the registered agent by filing a statement as required above with one copy thereof for each corporation listed on the certificate except that it need be signed only by the registered agent, need not be responsive to subdivision E or G and must recite that a copy of that statement has been mailed to each such corporation. If the secretary of state finds that such statement conforms to the provisions of chapters 10-19 through 10-23, he shall file such statement in his office, and upon such filing the change of address of the registered office, or the appointment of a new registered agent, or both, as the case may be, shall become effective.

2. Any registered agent of a corporation may resign as such agent upon filing a written notice thereof executed in duplicate, with the secretary of state, who shall forthwith mail a copy thereof to the corporation at its registered office. The appointment of such agent shall terminate upon the expiration of thirty days after receipt of such notice by the secretary of state.

§ 2. Amendment.) Section 10-22-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

10-22-09. Change of Registered Office or Registered Agent of Foreign Corporation.)

1. A foreign corporation authorized to transact business in this state may change its registered office or change its registered agent, or both, upon filing in the office of the secretary of state a statement setting forth:

- A. The name of the corporation;
- B. The address of its then registered office;
- C. If the address of its registered office be changed, the address to which the registered office is to be changed;
- D. The name of its then registered agent;

- E. If its registered agent be changed, the name of its successor registered agent;
- F. That the address of its registered office and the address of the business office of its registered agent, as changed, will be identical; and
- G. That such change was authorized by resolution duly adopted by its board of directors.

Such statement shall be executed by the corporation by its president or a vice president, and verified by him, and delivered to the secretary of state. If a registered agent changes his or its business address to a place within the same county he or it may change such address and the address of the registered office of any corporations of which he or it is the registered agent by filing a statement as required above with one copy thereof for each corporation listed on the certificate except that it need be signed only by the registered agent, need not be responsive to subdivision E or G and must recite that a copy of the statement has been mailed to each such corporation. If the secretary of state finds that such statement conforms to the provisions of this section, he shall file such statement in his office, and upon such filing the change of address of the registered office, or the appointment of a new registered agent, or both, as the case may be, shall become effective.

2. Any registered agent of a foreign corporation may resign as such agent upon filing a written notice thereof executed in duplicate, with the secretary of state, who shall forthwith mail a copy thereof to the foreign corporation at its registered office. The appointment of such agent shall terminate upon the expiration of thirty days after receipt of such notice by the secretary of state.

§ 3.) Subsection 20 of section 10-23-04 of the North Dakota Century Code is hereby created and enacted to read as follows:

- 20. Filing statement of change of address of registered office by registered agent, two dollars for each corporation affected by such change.

Approved March 21, 1963.

CHAPTER 104

H. B. No. 764
(Nygaard, Haugen)

CORPORATE LICENSE FEES

AN ACT

To amend section 10-23-06 of the North Dakota Century Code, to provide that said section, except as herein provided, shall not apply to building and loan and savings and loan associations with regard to the payment of license fees for domestic corporations, and to provide for separate license fees on authorized share accounts or increase in authorized share accounts of building and loan associations and savings and loan associations.

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

§ 1. **Amendment.**) Section 10-23-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

10-23-06. License Fees Payable by Domestic Corporations—Exempting Building and Loan and Savings and Loan Associations.) The secretary of state shall charge and collect from each domestic corporation license fees, based upon the value of its authorized shares, at the time of:

1. Filing articles of incorporation;
2. Filing articles of amendment increasing the number or value of authorized shares; and
3. Filing articles of merger or consolidation increasing the number or value of authorized shares which the surviving or new corporation, if a domestic corporation, will have authority to issue above the aggregate number or value of shares which the constituent domestic corporations and constituent foreign corporations authorized to transact business in this state had authority to issue.

The license fees shall be the sum of twenty-five dollars for the first \$25,000 of its authorized shares, or fraction thereof, and the sum of fifty dollars for authorized shares in excess of \$25,000 but not exceeding \$50,000 and the further sum of five dollars for every additional \$10,000 of its authorized shares or fraction thereof, in excess of \$50,000.

The license fees payable on an increase in authorized shares shall be imposed only on the additional shares, but the amount of previously authorized shares shall be taken into account in determining the rate applicable to the additional authorized shares.

For the purpose of this section, shares without par value shall be considered worth one hundred dollars per share.

The provisions of this section shall not apply to a building and loan or savings and loan association.

§ 2. License Fees Payable by Savings and Loan or Building and Loan Associations.) The secretary of state shall charge and collect from each building and loan or savings and loan association, based upon its authorized share accounts, at the time of:

1. Filing articles of incorporation;
2. Filing articles of amendment increasing the number or value of authorized share accounts; and
3. Filing articles of merger or consolidation increasing the number or value of authorized share accounts which the surviving or new association, if a domestic corporation will have authority to issue above the aggregate number or value of share accounts which the savings and loan association have authority to issue.

The license fees shall be in the sum of ten dollars per each million dollars of authorized share accounts or increase in authorized share accounts.

The license fees payable on an increase in authorized share accounts shall be imposed on the increase in authorized share accounts.

Approved March 18, 1963.

CHAPTER 105

S. B. No. 358
(Committee on Delayed Bills)
(Hernett)

STATE DEVELOPMENT CORPORATIONS

AN ACT

To amend and reenact sections 10-30-01, 10-30-05, 10-30-12, and 10-30-14 of the North Dakota Century Code, changing the name of small business investment corporations to "state development corporations" and providing that their existence may be perpetual.

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

§ 1. Amendment.) Section 10-30-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

10-30-01. Organization.) 1. Any ten or more natural persons who are residents of this state may form a state development corporation by complying with the conditions prescribed in this chapter.

2. They shall subscribe and acknowledge a certificate specifying:

- a. The name, the general nature of its business, and the principal place of transacting its business. The name shall distinguish the corporation from all other corporations authorized to do business in the state, and shall contain the words "state development corporation".
- b. The period of its duration, which shall be perpetual.
- c. The name and residence of each incorporator.
- d. The names and addresses of those composing this board until the first election.
- e. The highest amount of indebtedness or liability to which the corporation shall be subject.

3. The certificate may contain any other lawful provision defining and regulating the powers and business of the corporation, its officers, directors, members, and stockholders.

§ 2. Amendment.) Section 10-30-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

10-30-05. Business Corporations Act to Apply.) The provisions of chapters 10-19 through 10-23 of this code shall apply to state development corporations as they may be applicable and not inconsistent with this chapter.

§ 3. Amendment.) Section 10-30-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

10-30-12. Loans—Investment by Applicant.) Any person or firm who applies for a loan or obtains money from the development corporation shall be required to invest in the stock of the corporation in an amount to be fixed by the board of directors of not less than two percent nor more than five percent of the funds obtained.

§ 4. Amendment.) Section 10-30-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

10-30-14. Notes or Obligations—Legal Investments.) Notwithstanding any other statute, the notes or other interest bearing obligations of state development corporations, issued in accordance with this chapter and the articles of incorporation and the bylaws of the corporation shall be legal invest-

ments for any banks, savings banks, savings and loan associations, trust companies, stock or mutual insurance companies, or other financial institutions which become members of the corporation.

Approved March 21, 1963.

CHAPTER 106

H. B. No. 720
(Leahy, Wagner, Paulson, Aamoth)

PROFESSIONAL CORPORATIONS

AN ACT

Allowing persons practicing a licensed profession to form a professional corporation under the Business Corporation Act for the purpose of rendering professional service but preserving the relationship between the person rendering and the person receiving professional services and providing for continuing regulation by appropriate boards of such professions.

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

§ 1. **Title.)** This Act shall be known and may be cited as the Professional Corporation Act.

§ 2. **Statutory Policy.)** This Act shall be so construed as to effectuate its general purpose of making available to professional persons the benefits of the corporate form.

§ 3. **Definitions.)** As used in this Act, the following words shall have the meaning indicated:

1. The term "professional service" means the personal service to the public which requires a license as a condition precedent to the rendering of such service and which prior to the passage of this Act could not be performed by a corporation.

2. The term "professional corporation" means a corporation which is organized under this Act for the sole and specific purpose of rendering professional service and which has as its shareholders only individuals who themselves are duly licensed or otherwise legally authorized within this state to render the same professional service as the corporation.

§ 4. **Articles of Incorporation.)** One or more individuals may incorporate a professional corporation for the practice of a profession by filing articles of incorporation with the secretary of state. Such articles of incorporation shall meet the

requirements of the Business Corporation Act and, in addition thereto, contain the following:

1. The profession to be practiced through the professional corporation.

2. The names and residence addresses of all of the original shareholders, directors and officers of the professional corporation. At the time such articles of incorporation are filed with the secretary of state there shall also be filed a certificate by the regulating board of the profession involved that each of the directors and shareholders, if any, are duly licensed to practice such profession.

§ 5. Applicability of Business Corporation Act.) The Business Corporation Act shall be applicable to professional corporations and they shall enjoy the powers and privileges and be subject to the duties, restrictions and liabilities of other corporations except where inconsistent with the letter and purpose of this Act. This Act shall take precedence in the event of any conflict with the provisions of the Business Corporation Act.

§ 6. Purpose for Which Incorporated.) A professional corporation may be organized pursuant to the provisions of this Act only for the purpose of rendering one specific type of professional service and services ancillary thereto and shall not engage in any business other than rendering the professional service for which it was organized to render provided, however, that a professional corporation may own real and personal property necessary or appropriate for rendering the type of professional services it was organized to render and may invest its funds in real estate mortgages, stocks, bonds and any other type of investment.

§ 7. Corporate Name.) The corporate name of a corporation organized under this Act shall contain the word "chartered", "limited" or the abbreviation "Ltd.", or "professional corporation", or the abbreviation "P.C.". The use of the word "company", "corporation" or "incorporated" or any other word, abbreviation, affix or prefix indicating that it is a corporation, in the corporate name of a corporation organized under this Act, other than the words "chartered", "limited", or "professional corporation" or the abbreviations "Ltd." or "P.C.", is specifically prohibited.

§ 8. Officers, Directors and Shareholders.) No person may be simultaneously an officer, director, or shareholder of more than one professional corporation. A professional corporation which has only one shareholder need have only one director, who shall be such shareholder. He shall also serve as the president and treasurer of the corporation. The other officers

of the corporation need not be licensed or otherwise legally authorized in the same field of endeavor as the president. A professional corporation which has only two shareholders need have only two directors, who shall be such shareholders. The two shareholders shall fill all of the general offices of the corporation between them. A retired person may not continue as a director, officer or shareholder of a professional corporation.

§ 9. Issuance and Transfer of Shares.) A professional corporation may issue the shares of its capital stock only to persons who are duly licensed to render the same specific professional services as those for which the corporation was organized. A shareholder may voluntarily transfer his shares in a professional corporation only to a person who is duly licensed to render the same specific professional services as those for which the corporation was organized. Any shares issued in violation of this section are null and void. The voluntary transfer of any shares transferred in violation of this section is null and void. No shares may be transferred upon the books of the professional corporation or issued by the professional corporation until there is presented to and filed with the corporation a certificate by the regulating board stating that the person to whom the transfer is to be made or the shares issued is duly licensed to render the same specific professional services as those for which the corporation was organized.

§ 10. Professional Services Through Officers, Employees, Agents.) No corporation organized and incorporated under this Act may render professional services except through its officers, employees and agents who are duly licensed to render such professional services in this state; provided, however, that this provision shall not be interpreted to include in the term "employee", as used herein, clerks, secretaries, bookkeepers, nurses, technicians or other assistants who are not usually and ordinarily considered by custom and practice to be rendering professional services to the public for which a license or other legal authorization is required in connection with the profession practiced by a particular professional corporation.

§ 11. Professional Relationship Preserved — Liability of Shareholders — Professional Regulation.) This Act does not modify any law applicable to the relationship between a person furnishing professional service and a person receiving such service, including liability arising out of such professional service, and including the confidential relationship between the person rendering the professional service and the person receiving such professional service, if any, and all confidential

relationships previously enjoyed under the laws of this state or hereinafter enacted shall remain inviolate. Subject to the foregoing provisions, nothing contained herein shall render a director, officer, shareholder, or employee of a professional corporation personally liable in tort for any act in which he has not personally participated or in contract for any contract which he executes on behalf of a professional corporation within the limits of his authority. Nothing in this Act shall restrict or limit in any manner the authority and duty of the regulating boards for the licensing of individual persons rendering professional services. No professional corporation may do any act which is prohibited to be done by any individual persons licensed to practice the profession which the professional corporation is organized to render.

§ 12. Legal Disqualification.) If any officer, director or shareholder of a professional corporation becomes legally disqualified to render a professional service within this state or accepts employment or is elected to a public office that, pursuant to existing law, is a restriction or limitation upon rendering of professional service, he shall sever all employment with or financial interest in such professional corporation forthwith. A professional corporation's failure to comply or require compliance with this provision shall be a ground for the forfeiture of its right to render professional service as a professional corporation pursuant to the provisions of this Act.

§ 13. Disposition of Shares on Death or Disqualification.) The articles of incorporation may provide for the purchase or redemption of the shares of any shareholder upon the death or disqualification of such shareholder, or the same may be provided for in the bylaws or by private agreement. In the absence of a provision for the same in the articles of incorporation or the bylaws or by private agreement, the professional corporation shall have an option to purchase the shares of a deceased shareholder or a shareholder no longer qualified to own shares in such corporation within six months after the death or disqualification of the shareholder, as the case may be. The option price for such shares shall be the book value as of the end of the month immediately preceding the death or disqualification of the shareholder unless otherwise specified in the articles of incorporation, bylaws or by private agreement. Book value shall be determined from the books and records of the professional corporation in accordance with the regular method of accounting used by such corporation. In the event the professional corporation fails to exercise such option, the stock of the deceased or disqualified shareholder may be sold to any person duly licensed or otherwise legally authorized to render the same professional service as that for which the professional corporation was

organized. A disqualified shareholder, or the estate of a deceased shareholder, may continue to hold shares of the professional corporation during said option period and for a reasonable period thereafter, pending transfer to another duly licensed or otherwise legally authorized person, but shall not be authorized to participate in any decisions concerning the performance of professional service.

§ 14. Death of Last or Only Shareholder—Amendment of Articles of Incorporation—Involuntary Dissolution.) In the event of the death of the last or only shareholder of a professional corporation whose shares of stock pass to heirs by intestate succession, to legatees under a last will and testament, or otherwise pass by operation of law to a person or persons not legally qualified to render the professional services which the professional corporation was organized to perform, the heirs, legatees or personal representative of such deceased shareholder, within six months after the date of death of such last or only shareholder, may amend the articles of incorporation to provide that such corporation shall continue as a general corporation under the Business Corporation Act. The death of the last or only shareholder of a professional corporation and the failure of the heirs, legatees or personal representative to make such amendment within six months after such death shall be a ground for the involuntary dissolution of the professional corporation. When such facts are brought to the attention of the secretary of state he shall forthwith certify such facts to the attorney general who shall immediately take appropriate action to dissolve the professional corporation.

§ 15. Annual Reports.) Each professional corporation organized under this Act shall file with the secretary of state an annual report at the time specified for the filing of such reports by the Business Corporation Act giving the name and residence addresses of all officers, directors and shareholders of such professional corporation as of the thirtieth day of June next preceding the filing of such report and certifying that all of such officers, directors and shareholders are duly licensed to render the same specific professional services as those for which the corporation was organized. This certificate shall be made on such form as shall be prescribed and furnished by the secretary of state, shall be signed by the president or vice president and attested by the secretary or assistant secretary of the professional corporation, and sworn to before a notary public by the persons executing the certificate and accompanied by a filing fee of \$5 payable to the secretary of state. No other fees shall be charged therefor. A duplicate original copy of such annual report shall be filed at the same time with the regulatory board which licenses the shareholders

described in the certificates and no filing fee shall be charged by the regulatory board for such filing. The regulatory boards issuing the licenses described in section 3 of this Act are hereby authorized and directed to issue the certificates required by section 4 of this Act. Such certificates shall be on forms as prescribed and furnished by the secretary of state. The regulating boards may charge and collect a fee not to exceed \$5 per person so certified to be duly licensed by such regulating board.

Approved March 8, 1963.

COUNTIES

CHAPTER 107

H. B. No. 601

(Kelly, Leet, Hofstrand, Haugland, Stockman,
(Overbo, Backes, Giffey)

COUNTY FUNDS TRANSFER

AN ACT

To provide for the transfer of certain designated county funds to the county general fund and to repeal chapter 50-04 of the North Dakota Century Code, relating to county poor asylums.

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

§ 1. County Fair Fund—Transfer to County General Fund.) The board of county commissioners of any county in which a county fair has not been held for five consecutive years may transfer any funds in the county fair fund or funds levied or budgeted for county fairs to the county general fund to be used for general county purposes.

§ 2. Funds for County Asylums—Transfer to County General Fund.) Any funds of any county levied or budgeted for the use of county asylums for the poor, as provided for by chapter 50-04 of the North Dakota Century Code, shall be transferred to the general fund of such counties at the effective date of this Act.

§ 3. Repeal.) Chapter 50-04 of the North Dakota Century Code is hereby repealed.

Approved March 2, 1963.

CHAPTER 108

H. B. No. 674
(Baldwin)

CASS COUNTY BOUNDARIES

AN ACT

To amend and reenact section 11-01-10 of the North Dakota Century Code, relating to the name and boundaries of Cass County.

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

§ 1. **Amendment.)** Section 11-01-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-01-10. Cass County.) Beginning at the southwest corner of township one hundred thirty-seven north, range fifty-five west of the fifth principal meridian, a point on the ninth standard parallel; thence east along the ninth standard parallel to the present main channel of the Red River of the North; thence in a northerly direction along the present main channel of the Red River of the North to the intersection of the present main channel of the Red River of the North with the line between townships one hundred forty-three and one hundred forty-four north; thence west along the line between townships one hundred forty-three and one hundred forty-four north to the northwest corner of township one hundred forty-three north, range fifty-five west; thence south along the line between ranges fifty-five and fifty-six west to the southwest corner of township one hundred forty-one north, range fifty-five west, a point on the tenth standard parallel; thence east along the tenth standard parallel to the northwest corner of township one hundred forty north, range fifty-five west; thence continuing south along the line between ranges fifty-five and fifty-six west to the point of beginning.

Approved March 9, 1963.

CHAPTER 109

S. B. No. 95
(Mutch, Reichert, Kautzmann)

CONSOLIDATION OF COUNTIES

AN ACT

To amend and reenact sections 11-05-07, 11-05-08, and 11-05-15 of the North Dakota Century Code, relating to the consolidation of counties.

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

§ 1. **Amendment.)** Section 11-05-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-05-07. Affirmative Vote Necessary to Consolidate Counties.) If fifty-five percent of the legal votes cast on the question of consolidation in each of the counties affected shall be in favor of consolidation, all of the territory included within the established boundaries of the petitioning county shall be consolidated with and annexed to the adjoining county or counties described in the petition or petitions.

§ 2. **Amendment.)** Section 11-05-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-05-08. Resubmission of Question.) The proposition of consolidation shall not be voted upon more often than once in three years.

§ 3. **Amendment.)** Section 11-05-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-05-15. Officers of Petitioning County to Hold Office Until Time Expires—Duties.) All the county officers of the petitioning county shall continue to hold their offices until their respective terms of office shall expire and shall perform such duties as may be assigned to them by the boards of county commissioners of the annexed and consolidated counties.

Approved March 18, 1963.

CHAPTER 110

S. B. No. 93

(Longmire, Lips, Sorlie, Mahoney, Trenbeath, Erickson)

COUNTY OFFICERS' TERMS

AN ACT

To amend and reenact section 11-10-02 of the North Dakota Century Code Supplement, relating to the election and terms of office of certain county officers.

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

§ 1. **Amendment.)** Section 11-10-02 of the North Dakota Century Code Supplement is hereby amended and reenacted to read as follows:

11-10-02. Number and Election of Officers.) Each organized county, unless it has adopted one of the optional forms of county government, provided by the code, shall have the following officers:

1. One county auditor;
2. One register of deeds;
3. One clerk of the district court;
4. One state's attorney;
5. One sheriff;
6. One county judge;
7. One county treasurer;
8. One coroner;
9. One county superintendent of schools;
10. One or more county justices as provided in chapter 27-18;
11. Four constables;
12. One public administrator; and
13. A board of county commissioners consisting of three or five members as provided in this title.

In counties having a population of more than six thousand and not more than fifteen thousand, the county judge shall be an ex officio clerk of the district court, and in counties having a population of six thousand or less, the register of deeds shall be ex officio clerk of the district court and county judge. The required officers shall be chosen by the qualified electors of the respective counties at the general election in each even numbered year, except the register of deeds, county auditor, treasurer, sheriff, state's attorney, county judge, and clerk of the district court, who shall be chosen in 1966 and every four years thereafter, the members of the board of county commis-

sioners, who shall be chosen in the manner prescribed in section 11-11-02, the public administrator, who shall be chosen in the manner prescribed in section 11-21-01, the county justice, who shall be chosen in the manner prescribed in section 27-18-01, the county coroner, who shall be chosen in the manner prescribed in section 11-19A-03, and the constables, who shall be appointed by the board of county commissioners.

Approved March 4, 1963.

CHAPTER 111

S. B. No. 217

(Redlin, Becker, Foss, Mahoney)

COUNTY SUPERVISOR OF ASSESSMENTS

AN ACT

Providing for the appointment of a county supervisor of assessments.

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

§ 1. County Supervisor of Assessments — Appointment.) The board of county commissioners of each county may appoint a county supervisor of assessments who shall serve at the pleasure of the county commissioners. The compensation of such supervisor shall be determined by the county commissioners and such position may be either on a full-time or part-time basis in their discretion. The county commissioners may appoint as supervisor of assessments either the county auditor or a deputy county auditor or other elected county official, or any other person who is qualified. It shall be the responsibility of the county supervisor of assessments to supervise all assessors in the county to insure that uniform methods and procedures of real and personal property assessments are adhered to and to require them to conform to all state laws and to all rules and regulations regarding assessment methods and procedures as may be promulgated by the state tax commissioner or the board of county commissioners.

Approved March 16, 1963.

CHAPTER 112

H. B. No. 569

(Mueller, Anderson (McHenry), Dahl)

COUNTY OFFICERS' BONDS

AN ACT

To amend and reenact section 11-10-06 of the North Dakota Century Code, to provide that county justices shall be bonded for the faithful discharge of their duties, and declaring an emergency.

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

§ 1. **Amendment.**) Section 11-10-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-10-06. Bonds of County Officers.) Before entering upon the duties of their respective offices, the county officers herein named shall be bonded for the faithful discharge of their respective duties in the same manner as other civil officers are bonded and in the following amounts:

1. The county auditor, clerk of the district court, register of deeds, and sheriff, fifteen thousand dollars, except in counties having a population of less than ten thousand inhabitants, and in such counties, the amount shall be ten thousand dollars;
2. A county commissioner, two thousand dollars;
3. The county coroner, or a county constable, five hundred dollars;
4. The state's attorney, three thousand dollars;
5. The county surveyor, such amount, not to exceed two thousand dollars, as may be determined by the board of county commissioners;
6. The public administrator, not less than ten thousand dollars;
7. The county treasurer, an amount fixed by the board of county commissioners, which amount shall be not less than seventy-five thousand dollars, except in counties having a population of less than ten thousand inhabitants, and in such counties, not less than forty thousand dollars. When the total amount of taxes to be collected by the county treasurer in any one year is less than the minimum amount of bond specified in this subsection, the bond shall be in a sum equal to the amount of taxes to be collected;
8. A county justice, ten thousand dollars.

When the amount of any bond required under this section is dependent upon the population of a county, such population shall be determined as provided in section 11-10-10.

§ 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 8, 1963.

CHAPTER 113

S. B. No. 238
(Longmire)

COUNTY OFFICERS' DEPUTIES

AN ACT

To amend and reenact section 11-10-11 of the North Dakota Century Code, relating to appointment and salary of deputies and clerks.

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

§ 1. Amendment.) Section 11-10-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-10-11. Appointment and Salary of Deputies and Clerks.)

The number and salaries of deputies, clerks, and assistants for the county auditor, county treasurer, sheriff, register of deeds, county judge, and clerk of the district court shall be fixed by a resolution of the board of county commissioners. None of the officers mentioned in this section shall appoint as his deputy any other officer mentioned in this section nor the deputy of any such officer. The board of county commissioners upon written recommendation and approval of the state's attorney may appoint one or more assistant state's attorneys or clerks and fix their compensation in the same manner as in the case of deputies and clerks in other county offices. The work of such assistant state's attorneys shall be assigned by the state's attorney.

Approved March 9, 1963.

CHAPTER 114

S. B. No. 111
(Baeverstad, Longmire)

RECORDING OF INSTRUMENTS

AN ACT

To amend and reenact subsection 3 of section 11-18-03 of the North Dakota Century Code, relating to documents transferring ownership of real estate which must be presented to the county auditor's office prior to being placed of record.

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

§ 1. Amendment.) Subsection 3 of section 11-18-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. A final decree of distribution or any order terminating joint tenancy or any judgment or decree affecting title to real estate, which must be presented to the auditor's office prior to being placed of record in order to allow the auditor to make such changes in the tax rolls of his office as may be necessary;

Approved March 6, 1963.

CHAPTER 115

S. B. No. 242
(Sorlie, Roen)

JOINT COUNTY PARK DISTRICTS

AN ACT

To amend and reenact section 11-28-12 of the North Dakota Century Code, relating to the formation of joint county park districts.

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

§ 1. Amendment.) Section 11-28-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-28-12. Joint County Park District.) Two or more contiguous or adjacent counties may form a joint county park district by resolution duly adopted by the board of county commissioners of each county affected. Contiguity of counties shall

not be affected by intervening waters. The powers of such joint county park district shall be exercised by a board of park commissioners chosen as follows:

The board of county commissioners of each county comprising such joint county park district shall select two members of such joint board, of whom one shall be a member of such board of county commissioners, and such joint board shall select one additional member at large. Each member of the joint park board shall serve for a term of two years and until his successor is selected and qualified.

Approved March 6, 1963.

CRIMES AND PUNISHMENTS

CHAPTER 116

H. B. No. 711
(Aamoth)

FALSE THREATS OF DANGER

AN ACT

Providing a penalty for conveying or causing to be conveyed known false information concerning an alleged attempt to endanger in any way any private or public building or structure, meeting or gathering, or any public carrier.

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

§ 1. False Information Concerning Public or Private Buildings or Meetings or Public Carriers—Penalty.) It shall be a felony punishable by a fine of not more than one thousand dollars or by imprisonment in the state penitentiary for not more than five years, or by both such fine and imprisonment, to impart or convey, or to cause to be imparted or conveyed, false information, knowing such information to be false, concerning an attempt or alleged attempt to place in jeopardy or to endanger in any way any private or public building or structure, meeting or gathering, or any public carrier of either passengers or freight.

Approved March 13, 1963.

CHAPTER 117

H. B. No. 704
(Loder)

PROSTITUTION

AN ACT

To amend and reenact section 12-22-17 of the North Dakota Century Code, relating to prostitution, lewdness, assignation, and the punishment therefor.

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

§ 1. Amendment.) Section 12-22-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-22-17. Prostitution, Lewdness, Assignation — Punishment.) Any person who shall be convicted of any of the offenses set forth in section 12-22-14 shall be subject to imprisonment in the penitentiary for not less than one year nor more than five years, or in the county jail for not more than one year, or by a fine of not more than one thousand dollars or by both such fine and imprisonment.

Approved March 5, 1963.

CHAPTER 118

S. B. No. 63

(Morgan, Longmire, Becker, Sinner, Mutch, Holand, Brooks,
(Trenbeath, Meidinger, Van Horn, Bopp, Wartner)

BRIBERY OF ATHLETES

AN ACT

To create and enact sections 12-23-08 and 12-23-09 of the North Dakota Century Code, providing a penalty for the offering or accepting of bribes calculated to affect the result of amateur or professional games, contests, or athletic events.

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

§ 1.) Section 12-23-08 of the North Dakota Century Code is hereby created and enacted to read as follows:

12-23-08. Offering Bribe to Affect Result of Athletic Event —Penalty.) Any person who gives, offers, or promises to give any gift, emolument, money, gratuity, favor, testimonial, privilege, appointment, personal advantage, or thing of value to any participant, prospective participant, official, prospective official, or any person having any duty or connection with any participant, prospective participant, official, prospective official, game, contest, or athletic event, or who attempts directly or indirectly by menace, deceit, fraud, or threat to influence or who calculates to influence the result of any amateur or professional game, contest, or athletic event is punishable by imprisonment in the state penitentiary for not less than one year nor more than five years, or by a fine of not more than five thousand dollars, or by both such fine and imprisonment.

§ 2.) Section 12-23-09 of the North Dakota Century Code is hereby created and enacted to read as follows:

12-23-09. Accepting Bribe to Affect Result of Athletic Event — Penalty.) Any participant, prospective participant,

official, prospective official, or any person having any duty or connection with any participant, prospective participant, official, prospective official or amateur or professional game, contest, or athletic event who asks, receives, agrees to receive, or solicits in any way any gift, emolument, money, gratuity, favor, testimonial, privilege, appointment, personal advantage, or thing of value to influence him in any way to affect the result, or attempt to affect the result of any amateur or professional game, contest, or athletic event is punishable by imprisonment for not less than one year nor more than five years, or by a fine of not more than five thousand dollars, or by both such fine and imprisonment, except that a participant or prospective participant of either a high school or college game, contest, or athletic event shall be punishable by imprisonment for not more than ninety days, or by a fine of not more than five hundred dollars, or by both such fine and imprisonment.

Approved March 4, 1963.

CHAPTER 119

S. B. No. 102

(Morgan, Kjos, Dahlund)

DEPOSIT OF REFUSE

AN ACT

To amend and reenact subsection 6 of section 12-41-11 of the North Dakota Century Code, prohibiting the hauling or depositing of refuse upon the land of another.

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

§ 1. Amendment.) Subsection 6 of section 12-41-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6. Hauling or depositing upon the real estate, lot, or farm of another any dead horse, dog, cow, or other animal, or any manure, offal, putrid or unsound beef, pork, fish, hides, or skins, or flesh of any kind or description, or any tin cans, bottles, paper, filth, offal, vegetables, or other unsound or offensive matter or thing whatsoever, or any matter or thing which by putrefication or decomposition will produce offensive smells or effluvia, or any other substance of any kind, nature, or description, without first obtaining the consent of the owner or occupant thereof in writing.

Approved March 2, 1963.

CHAPTER 120

S. B. No. 105
(Brooks)

EAVESDROPPING

AN ACT

To amend and reenact section 12-42-05 of the North Dakota Century Code, relating to the offense of eavesdropping, and providing a penalty.

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

§ 1. **Amendment.)** Section 12-42-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-42-05. Eavesdropping — Misdemeanor.) Every person guilty of secretly loitering about any building or using any mechanical or electronic device with intent to overhear or record any discourse or conversation therein and to repeat or publish the same with the intent to vex, annoy, or injure others, is guilty of a misdemeanor.

Approved March 5, 1963.

CHAPTER 121

H. B. No. 742
(Leahy)

REVOCATION OF CIGARETTE LICENSE

AN ACT

To amend and reenact section 12-43-07 of the North Dakota Century Code, relating to revocation of permits of persons authorized to sell various tobacco products.

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

§ 1. **Amendment.)** Section 12-43-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-43-07. Revocation of Permit.) The officer, board, department, commission, or other body having authority to issue a permit to any person authorizing such person to sell cigarettes,

cigarette papers, snuff, cigars, or tobacco in this state shall revoke the permit of any such person who has violated any provision of this chapter, and no such permit shall be issued again to such person for a period of two years thereafter.

Approved March 5, 1963.

CHAPTER 122

H. B. No. 533

(Fitch, Burk, Stockman, Tough, Stallman,)
(Davis of Mercer-Dunn-Oliver)
(From LRC Study)

STATE FARM COMMITMENTS

AN ACT

To amend and reenact sections 12-51-06, 12-51-07, and 12-51-08 of the North Dakota Century Code, relating to the rules and regulations for the control and administration of the state farm, and the commitment and cost of transportation and care of prisoners thereto.

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

§ 1. **Amendment.)** Section 12-51-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-51-06. Board of Administration to Establish Rules for Control of State Farm and Prisoners Committed Thereto.) The board of administration may establish, adopt, and enforce proper rules and regulations consistent with the provisions of this chapter for the control and administration of the state farm and the prisoners committed thereto.

§ 2. **Amendment.)** Section 12-51-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-51-07. Prisoners Eligible for Commitment to State Farm — Commitment Thereto Deemed a Conviction of Misdemeanor.) The judges of the district courts, and of the county courts with increased jurisdiction, may commit to the state farm, so far as the capacity of the farm shall permit, all male persons who otherwise would be committed to the county jail or to the penitentiary for violation of any criminal law of this state, where the sentence is not less than thirty days nor more than one year provided that no person shall be committed to the state farm who:

1. Has at any time been convicted of a sexual offense; or
2. Has served a sentence or portion thereof in a penitentiary upon conviction of a felony; or
3. Has a history of moral or sexual degeneration.

A person committed to the state farm shall not be deemed to have been convicted of a felony, but shall be deemed to have been convicted of a misdemeanor.

§ 3. **Amendment.)** Section 12-51-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-51-08. Cost of Transportation and Care of Persons Committed to State Farm—How Paid—Federal Prisoners.) The cost of transporting persons committed to the state farm shall be paid as the costs of transporting persons committed to the penitentiary are paid. The cost of care and keep of persons who are committed to the state farm for the commission of a crime for which they might have been sentenced to the penitentiary shall be paid by the state out of the funds appropriated for such purpose for persons committed to the penitentiary, or out of the funds appropriated for that purpose. The cost of care and keep of any person committed to said farm for the commission of a crime for which he might have been sentenced to a county jail, but not to the penitentiary, shall be paid by the county from which such person is committed at the rate of three dollars per day per person, except however, when the offense is committed in any county within an area, where there is in process of construction any federal project of such magnitude as to attract to such area a large number of people from outside the locality, then any person convicted of an offense for which he might have been sentenced to a county jail, and who is not, in the opinion of the court, permanently residing in said area, the cost of care and keep shall be paid by the state out of funds appropriated for that purpose. Provided further that whenever the state farm is filled to capacity and there are no longer adequate facilities for additional inmates, the board of administration shall notify the courts of such facts and after such notice no further commitments shall be made to said institution until such facilities have been provided. The board shall have authority to enter into an arrangement or agreement with the proper authorities of the federal government whereby persons convicted of a crime in the federal court of this state may be committed to said farm, but persons convicted in the federal court shall be admissible to the said farm only if the term of the sentence is not less than thirty days nor more than one year.

Approved March 2, 1963.

CHAPTER 123

S. B. No. 112
(Longmire)

CRIME BUREAU TRANSFER

AN ACT

To amend and reenact sections 12-58-01, 12-58-02, 12-58-07, 12-58-08, and 54-12-01 of the North Dakota Century Code, relating to the office of the superintendent of criminal identification and transferring the duties of such office from the warden of the penitentiary to the attorney general.

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

§ 1. **Amendment.)** Section 12-58-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-58-01. Superintendent of Criminal Identification—Compensation—Appointment of Assistant Superintendent.) The attorney general shall be the superintendent of criminal identification. He shall serve as such superintendent without any compensation in addition to that received as attorney general. The attorney general may employ an assistant superintendent and such additional personnel as may be necessary to carry out the provisions of this chapter and set their salaries within the limits of legislative appropriations therefor.

§ 2. **Amendment.)** Section 12-58-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-58-02. Duties of Superintendent.) It shall be the duty of the superintendent and his assistant:

1. To cooperate with and assist the criminal bureau of the Department of Justice at Washington, D.C. and similar departments in other states in establishing and carrying on a complete system of criminal identification;
2. To cooperate with and assist all judges, state's attorneys, sheriffs, chiefs of police, and all other law enforcement officers of this or any other state and of the federal government in establishing such system of criminal identification;
3. To file for record the fingerprint impressions of every person confined in any penitentiary or jail when such person is suspected of having committed a felony or of being a fugitive from justice, and to file such other

information as they may receive from the law enforcement officers of this or any other state, or from the federal government;

4. To assist the sheriffs and other peace officers in establishing a system for the apprehension of criminals and detection of crime;
5. To cooperate with the state's attorneys, sheriffs, constables, marshals, police, and other peace officers of this state in the apprehension and detention, within or without this state, and conviction, of persons believed to be guilty of committing any felony within this state;
6. To conduct such investigations throughout the state as may be necessary to apprehend and convict persons guilty of committing felonies;
7. To instruct the sheriffs and other law enforcement officers of the state in the taking of fingerprints.

§ 3. Amendment.) Section 12-58-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-58-07. Superintendent to Make Rules and Regulations.)

The superintendent shall make and promulgate such rules and regulations, not inconsistent with the provisions of this chapter, as may be necessary and proper for the efficient performance of his duties. Such rules and regulations shall be printed and forwarded to each state's attorney, sheriff, constable, marshal, or other peace officer, and each of said officers shall assist the superintendent in the performance of his duties by complying with such rules and regulations.

§ 4. Amendment.) Section 12-58-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-58-08. Court to Ascertain Criminal Record of Defendant — Furnish Information of Offense to Superintendent.) The judge of the district court of the county in which a defendant is to be sentenced, or the state's attorney or sheriff thereof, shall ascertain the criminal record of every defendant convicted of a felony before sentence is passed on said defendant. The state's attorneys and sheriffs, upon the request of the superintendent, shall furnish to the superintendent a statement of facts relative to the commission or alleged commission of all felonies within their respective counties upon such blanks or in such form as may be requested by the superintendent.

§ 5. Amendment.) Section 54-12-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-12-01. Attorney General—Duties.) The attorney general shall:

1. Appear for and represent the state before the supreme court in all cases in which the state is interested as a party;
2. Institute and prosecute all actions and proceedings in favor or for the use of the state which may be necessary in the execution of the duties of any state officer;
3. Appear and defend all actions and proceedings against any state officer in his official capacity in any of the courts of this state or of the United States. If both parties to an action are state officers, the attorney general may determine which officer he will represent and the other officer may employ counsel to represent him;
4. Consult with and advise the several state's attorneys in matters relating to the duties of their office;
5. Attend the trial of any party accused of crime and assist in the prosecution when in his judgment the interests of the state require it;
6. Consult with and advise the governor and all other state officers, and when requested give written opinions on all legal or constitutional questions relating to the duties of such officers respectively;
7. Prepare, when necessary, proper drafts for contracts and other writings relating to subjects in which the state is interested;
8. Give written opinions, when requested by either branch of the legislative assembly, upon legal questions;
9. Enforce the proper application of funds appropriated to the public institutions of the state and prosecute breaches of trust in the administration of such funds;
10. Prosecute corporations, when necessary, for failure or refusal to make the reports required by law;
11. Keep in proper books a register of all cases prosecuted or defended by him, or his assistants, in behalf of this state or its officers, and of all proceedings had in relation thereto, including a record of all actions wherein the state is a party, or is interested, prosecuted by the state's attorneys of the several counties and reported to him as provided by law, and deliver the same to his successor in office;
12. Keep in his office a book in which he shall record all the official opinions given by him during his term of office, such book to be delivered by him to his successor in office;
13. Pay into the state treasury all moneys received by him for the use of the state;

14. Serve as superintendent of criminal identification and perform all duties incident to the proper and efficient conduct of that office;
15. Attend to and perform any other duties which from time to time may be required by law.

Approved March 4, 1963.

CHAPTER 124

H. B. No. 534

(Fitch, Burk, Stockman, Tough, Davis (Mercer-Dunn-Oliver),
(Stallman)

(From LRC Study)

STATE PAROLE BOARD

AN ACT

To create a state parole board and to define the powers thereof; to amend and reenact sections 12-30-12, 12-53-04, 12-53-06, 12-53-07, 12-53-08, 12-53-10, 12-53-11, 12-53-12, 12-53-13, 12-53-14, 12-53-15, 12-53-16, 12-55-01, 12-55-02, 12-55-06, 12-55-07, 12-55-10, 12-55-17, 12-55-18, 12-55-19, 12-55-20, 12-55-21, 12-55-22, 12-55-30, and 12-55-32 of the North Dakota Century Code, relating to the powers of the board of pardons in the parole of inmates from the state penitentiary and the supervision of probationers and providing penalties; and to repeal sections 12-53-02, 12-55-08, 12-55-09, 12-55-13, 12-55-14, 12-55-16, 12-55-25, 12-55-26, and 12-55-26.1 of the North Dakota Century Code, relating to the powers of the board of pardons in the parole of inmates from the state penitentiary, and the power of the courts to suspend sentence.

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

§ 1. State Parole Board—Membership.) The state parole board shall consist of three members, who shall be qualified electors of the state, appointed by the governor for terms of three years, arranged so that the term of one member shall expire on December thirty-first of each year. One of the members shall be a person experienced in law enforcement, which may include experience as a prosecuting attorney; one shall be a licensed attorney; and one shall be a person qualified by special experience, education, or training. Members shall be removable by the governor only for disability, inefficiency, neglect of duty, or malfeasance in office.

§ 2. Meetings—Quorum—Compensation.) The board shall organize by selecting a chairman. Meetings of the board shall be held at the state penitentiary on call of the chairman as

often as required to properly conduct the business of the board, but in any event not less than six times per year. Two members shall constitute a quorum, and no action shall be taken without the concurrence of at least two members. Members shall be compensated at the rate of fifteen dollars per day for each day actually and necessarily spent in the performance of their duties as board members plus the same mileage and expenses as are authorized for state officials and employees.

§ 3. Supplies—Regulations Governing Parole.) The board shall provide books of record, application blanks, and such other supplies as are necessary to the performance of its duties. It shall formulate rules and regulations governing the manner in which inmates may become eligible to apply for discharge on parole.

§ 4. Records Privileged—Inspection.) All pre-sentence and pre-parole reports, and the supervision history, obtained in the discharge of official duty by any member or employee of the board, shall be privileged and shall not be disclosed directly or indirectly to anyone other than the board, the judge, committees of the legislative assembly, or others entitled by law to receive such information, except that the board or court may, in its discretion, permit the inspection of the report or parts thereof by the defendant or prisoner or his attorney, or other person having a proper interest therein, whenever the best interest or welfare of a particular defendant or prisoner makes such action desirable or helpful.

§ 5. Consideration by Board—Guarantee.) Within one year after his admission and at such intervals thereafter as it may determine, the board shall consider all pertinent information regarding each prisoner, including the circumstances of his offense, his pre-sentence report, his previous social history and criminal record, his conduct, employment and attitude in prison and the reports of such physical and mental examinations as have been made.

§ 6. General Powers of Board.) The board may issue process requiring the presence of any person or officer before it, with or without books and papers, in any matters pending before said board. If any such person or officer disobeys the order of the board, the chairman, or acting chairman, of such board, may apply to any judge of the district court for an order requiring the attendance of such person or officer, with or without books and papers described in the process. The failure of any such person or officer to comply with such order of the district court shall be held to be a contempt of court and shall be punishable accordingly. Any member of the board, the parole officer, or anyone appointed by the board to secure information for said board, shall have the

power to examine witnesses and records, and to administer oaths to witnesses. Any witness testifying falsely after the oath has been administered to him shall be guilty of perjury and shall be punished accordingly. The board may employ psychiatrists or specialists for mental or medical examination of applicants and may take such reasonable steps as it may deem necessary for proper determination of any matters before it.

§ 7. Requirements Precedent to Parole.) No parole shall be granted to any person confined in the penitentiary unless:

1. He has maintained a good record at the penitentiary for at least six months previous to his application for a parole;
2. Employment has been secured for him with some responsible citizen certified to be such by the judge of the county or district court of the county where such citizen resides or a detainer has been lodged by another authority; and
3. The board is convinced that the applicant will conform to all the rules and regulations adopted by said board.

§ 8. Application for Parole—Hearing—Emergency Paroles.) All applications for parole shall be filed with the clerk of the board. Applications may be heard at any meeting of the parole board. In the event of an emergency application, the ex officio members of the board of pardons, acting as authorized by section 12-55-04, may, in accordance with section 12-55-19, grant such emergency parole. Thereafter the parolee shall be under the supervision and jurisdiction of the parole board.

§ 9. Contents of Application for Parole.) An application for parole shall be in writing, addressed to the board, and shall be signed by the convict or some person in his behalf. It shall state concisely the ground upon which the parole is sought, and in addition shall contain the following facts:

1. The name under which the convict was indicted, informed against, and convicted, and every alias by which he has been known;
2. The date and the terms of the sentence imposed against him and the name of the offense for which it was imposed;
3. The name of the trial judge and the state's attorney who participated at the trial of the convict, together with the name of the county in which he was tried;
4. A concise statement of the evidence adduced at the trial with the endorsement of the trial judge or state's attorney who participated at the trial, that the same is

- substantially correct, or if such statement and endorsement are not furnished, the reason therefor shall be stated;
5. If an appeal was taken from the judgment of conviction, the date of the final determination by the supreme court and a transcript of the evidence adduced at the trial shall be furnished;
 6. The age, birthplace, parentage, occupation, and the residence during the five years immediately preceding conviction of the convict;
 7. A statement of other arrests, indictments, informations, and convictions, if any, against the convict; and
 8. Such other information as the board from time to time may require under rules and regulations adopted by it.

§ 10. Notice of Application for Parole—to Whom and by Whom Given—Service.) Notice of an application for a parole and of the time and place of hearing the same shall be given by the clerk of the board to the judge and the state's attorney who participated in the trial of the applicant, and if the judge or state's attorney is no longer in office, notice also shall be given to his successor in office. Such notice shall set forth the name of the person making application, the crime of which he was convicted, the time and place of the conviction, the sentence imposed, the name of the judge who presided over the trial, and the name of the state's attorney who prosecuted the trial of the applicant. Service of such notice shall be made by registered or certified mail.

§ 11. Posting of Notice of Application in Certain Cases.) If the applicant for a parole is serving under a conviction for murder, manslaughter in the first degree, rape by force, kidnaping, or robbery in the first degree, the notice described in section 10 of this Act, in addition to being served as therein specified, shall be posted in a conspicuous place at the front door of the courthouse in the county in which the information was filed or indictment returned for four consecutive weeks prior to the hearing.

§ 12. Board May Reconsider Action.) The board may reconsider its action in granting a parole to any convict at any time before such convict has been released and finally discharged from the penitentiary. Such action may be taken on the board's own motion or on the petition of interested parties.

§ 13. Indeterminate Sentence—Release of Prisoner Serving Under.) No person serving an indeterminate sentence shall be released from the penitentiary merely because the minimum term of his sentence has expired, but his term shall continue until the expiration of the maximum term unless he is

paroled from the institution by the board. The board may determine and fix the date when an inmate imprisoned under an indeterminate sentence may be paroled, after the expiration of the minimum term of his sentence.

§ 14. Psychiatric Evaluation—Transfer to State Hospital.) The parole board may cause any person who has been paroled under the provisions of this chapter to be given psychiatric evaluation or to be transferred to the state hospital for diagnosis and disposition according to such conditions as may be prescribed by the board.

§ 15. Breach of Parole—Order of Recommitment.) Any person shall be deemed to be in the custody and under the control of the board while on parole, and shall be subject, at any time until the expiration of the term for which he was sentenced, to be taken into actual custody and returned to the penitentiary. The board shall enforce the rules and regulations made by it for the paroling of persons committed to the penitentiary. When it shall appear to the board after a full hearing that a person out on parole has violated any of such rules or regulations, it may order that such person be taken into actual custody and recommitted to and confined in the penitentiary as provided in his sentence. The board shall enter any such order in the record of its proceedings. A copy of the order certified by the clerk of the board may be delivered to any sheriff or other peace officer of the state for service and return, and it shall be the duty of any such officer to receive the same, to apprehend and immediately to return any person named in the order, and to deliver him to the warden of the penitentiary. The warden shall receive and re-imprison such person in accordance with the terms of his original sentence.

§ 16. Execution of Order of Recommitment—Fees and Payment Thereof.) The officer executing an order for the recommitment of a prisoner to the penitentiary shall endorse a return of his doings thereon, and shall deliver the execution, a copy of the order of recommitment, and his return to the warden, with the person named therein. The warden shall deliver to such officer a certificate acknowledging the receipt of the person, the certified copy of the order, and the return, and such certificate shall be retained by the officer making the return. The fees of an officer for executing such an order shall be the same as are prescribed for the commitment of a person to the penitentiary under a sentence of the court, but in no case shall such fees exceed the sum of one hundred dollars.

§ 17. Causing Parolee or Probationer to Violate Parole or Probation—Penalty.) Any person knowing that another person is on parole, or on probation under a suspended sentence

or a deferred imposition of sentence, who willfully causes such parolee or probationer to violate the terms or conditions of his parole or probation is guilty of a misdemeanor.

§ 18. Orders Not Reviewable—Exception.) Orders of the board shall not be reviewable except as to compliance with the terms of this chapter or chapter 12-53.

§ 19. Reports of Board and Governor.) At the close of each fiscal year the board shall submit to the governor a report of paroles granted, along with statistical and other data of its work, including research studies which it may make of probation, sentencing, or related functions, and a compilation and analysis of dispositions by criminal courts throughout the state. The governor shall communicate to the legislative assembly at each regular session thereof each case of parole granted by the board, stating the name of the convict, the crime for which he was convicted, the sentence and its date, and the date of the parole.

§ 20. Amendment.) Section 12-30-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-30-12. Psychiatric Treatment.) The board of pardons may cause any person convicted under the provisions of this chapter to be given psychiatric treatment or to be transferred to the state hospital for diagnosis and disposition according to such conditions as may be prescribed by the board of pardons.

§ 21. Amendment.) Section 12-53-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-53-04. Probation and Parole from County Jail.) As a part of an order suspending a sentence to imprisonment in a county jail upon a conviction for a misdemeanor, the court may place the defendant on probation or may order him released on parole, and such order may be made before or after his incarceration pursuant to such sentence.

§ 22. Amendment.) Section 12-53-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-53-06. When Sentence for Felony Suspended Court Must Place Defendant on Probation.) When a defendant has been found guilty of a felony for which the sentence may be suspended under this chapter, if the facts set forth in section 12-53-01 appear and the court shall suspend the sentence, the order suspending such sentence shall provide that the defendant shall be placed on probation. The effect of the order sus-

pending the sentence and placing the defendant on probation shall be to place said defendant under the control and management of the parole board, and he shall be subject to the same rules and regulations as apply to persons paroled from the penitentiary after a period of imprisonment therein.

§ 23. **Amendment.)** Section 12-53-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-53-07. Duty of Clerk of Court When Felony Sentence Is Suspended—Release of Defendant—Statistical Data.) Whenever the court shall make its order that the sentence imposed upon a person convicted of a felony shall be suspended and such person placed on probation as provided in this chapter, it shall be the immediate duty of the clerk of the court in which the judgment is entered to make full copies of the judgment of the court with the order for the suspension of the execution of the sentence thereunder and the reasons assigned by the court for such suspension, and to certify the same to the clerk of the parole board and to the warden of the penitentiary. Upon the entry in the records of the court of an order for such suspension and probation, the defendant shall be released from custody as soon as the requirements of the board of pardons have been met properly and fully. It shall also be the duty of the clerk of court, upon the disposition of any criminal case, to transmit to the parole board statistical data, in accordance with regulations issued by the board, regarding all defendants whether found guilty or discharged.

§ 24. **Amendment.)** Section 12-53-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-53-08. Parole Board to Furnish Parole Forms to Clerk of Court.) The parole board shall furnish blank forms setting forth the requirements and conditions used by it in the parole and probation of prisoners of the penitentiary to the clerk of court of each county for use when the sentence of a person convicted of a felony has been suspended.

§ 25. **Amendment.)** Section 12-53-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-53-10. Arrest of Person Under Suspended Sentence for Breach of Probation Conditions.) Any person who has been placed upon probation under the provisions of this chapter after having been convicted of a felony and who has violated the conditions of his probation shall be subject to arrest upon the order of the parole board in the same manner as in the

case of an escaped convict. When such person does not conduct himself in accordance with the rules and regulations of the parole board the parole officer or any peace officer designated by the board may arrest such person without a warrant or other process and convey him to the penitentiary. Upon such arrest and detention, the parole officer or peace officer shall immediately notify the court and the parole board and shall submit in writing a report showing in what manner the probationer has violated the conditions of his release.

§ 26. Amendment.) Section 12-53-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-53-11. Parole Board May Revoke Suspension and Terminate Probation After Hearing.) The parole board, after a full investigation and a personal hearing, may revoke the suspension of the sentence of a person convicted of a felony and placed on probation and may terminate the probation and cause said person to suffer the penalty of the sentence previously imposed upon him, if the board shall determine at such hearing that the probationer has violated any of the rules and regulations prescribed for the conduct of probationers. When the probation has been terminated, the original sentence shall be considered as beginning upon the first day of imprisonment in the penitentiary.

§ 27. Amendment.) Section 12-53-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-53-12. Release from Probation — Period of Probation.) Whenever it is the judgment of the parole board that a person on probation has satisfactorily met the conditions of his probation, it shall cause to be issued to said person a final discharge from further supervision. The length of the period of probation shall not be less than the minimum term nor more than the maximum term for which he might have been imprisoned, except that in cases where the defendant has been found guilty of abandonment or nonsupport of his wife or children, the period may be continued for as long as responsibility for support continues.

§ 28. Amendment.) Section 12-53-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-53-13. Imposition of Sentence Suspended—When Authorized.) When a defendant has been found guilty of a crime, whether or not for the first time, the court having jurisdiction thereof, including a county justice, upon application or its own

motion may, in its discretion, suspend the imposing of the sentence and may direct that such suspension continue for a definite period of time, upon such terms and conditions as it may determine. Such period shall not exceed five years, except that in cases where the defendant has been found guilty of abandonment or nonsupport of his wife or children, the period may be continued for as long as responsibility for support continues.

§ 29. Amendment.) Section 12-53-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-53-14. Defendant Placed Under Control of Parole Board—Sponsor of Defendant.) In the event the court shall suspend the imposition of sentence of a defendant, the court shall place the defendant on probation during the period of suspension. During the period of probation the defendant shall be under the control and management of the parole board, subject to the same rules and regulations as apply to persons placed on probation under suspended sentence as provided in this chapter. The parole board shall assume and undertake the supervision of said probationer, promulgating rules and regulations for the conduct of such person during the period of his probation, except that if the defendant was found guilty of a misdemeanor, the court by order may waive the supervision of the defendant by the parole board, and direct that the defendant shall make his monthly reports to the state's attorney of the county in which the action is pending. The court may designate the clerk of district court, the sheriff, the state's attorney, or any other person to act as sponsor for the defendant. It shall be the duty of the sponsor to assist the probationer in making his monthly reports to the parole board or to the state's attorney, to report any violations, and to counsel and direct said probationer whenever possible.

§ 30. Amendment.) Section 12-53-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-53-15. When Probation May Be Terminated.) Whenever the parole board, the court, or the state's attorney, shall have reason to believe such defendant is violating the terms of his probation, such probationer shall be brought before the court wherein the probation was granted for a hearing upon the alleged violation. For this purpose any peace officer or state parole officer may re-arrest the probationer without warrant or other process. Costs incurred in bringing the probationer before the court shall be borne by the county wherein the probation was granted. The court may thereupon, in its discretion, without notice revoke and terminate such probation,

pronounce judgment, and deliver defendant to the sheriff to be transferred to the penitentiary or other state institution in accordance with the sentence imposed.

§ 31. **Amendment.)** Section 12-53-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-53-16. Probationer Deemed Escapee and Fugitive from Justice—When.) If, after suspension of imposition of sentence, such probationer leaves the jurisdiction prior to the expiration of his probationary period without permission of the court or the parole board, he shall be deemed an escapee and a fugitive from justice.

§ 32. **Amendment.)** Section 12-55-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-55-01. Board of Pardons—Membership.) The board of pardons shall consist of the governor, the attorney general, the chief justice of the supreme court, and two qualified electors appointed by the governor, who may also be members of the parole board.

§ 33. **Amendment.)** Section 12-55-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-55-02. Compensation of Members of Board of Pardons.) The ex officio members of the board of pardons shall receive no additional compensation for their services upon such board. The two qualified electors appointed on the board by the governor shall receive fifteen dollars for each day necessarily employed in attendance upon the sessions of the board and mileage for each mile actually and necessarily traveled in connection with such duties. Such compensation and mileage shall be paid upon the presentation of the proper voucher containing an itemized statement of the number of days' attendance and the number of miles actually and necessarily traveled in connection with such duties, duly verified by the oath of the member of the board making the claim and approved by the president or secretary of the board. All such claims shall be audited and separate warrants shall be drawn upon the state treasurer for the amount allowed to be paid out of the state treasury.

§ 34. **Amendment.)** Section 12-55-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-55-06. Clerk of Board—Appointment—Duties—Record of Board's Actions.) The three ex officio members of the

board of pardons and the parole board shall jointly appoint a clerk for the board, who shall also serve as clerk for the parole board, whose duties shall be:

1. To keep a docket of all applications filed with the board of pardons or the parole board and of all action taken thereon;
2. To keep a record of every petition for a pardon, parole, reprieve, or commutation of sentence received by each board, and of every letter or paper filed or appearance made in connection therewith;
3. To keep a record of every pardon, parole, reprieve, or commutation of sentence granted or refused and of the reasons assigned for each such action;
4. To maintain a complete and accurate filing system of all proceedings before each board;
5. To keep and preserve in his office all the files and records of each board and perform such duties in relation thereto as each board shall prescribe; and
6. To perform such other duties as each board may assign to him.

§ 35. **Amendment.**) Section 12-55-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-55-07. Parole Officers—Appointment—Duties.) The ex officio members of the board of pardons shall appoint one or more parole officers, one of whom may be the clerk of the board of pardons and of the parole board, whose duties shall be:

1. To have supervision over and to look after the welfare of persons who have been paroled from the penitentiary and of persons who have received suspended sentences and have been placed upon probation after having been convicted of a felony;
2. To keep a complete record of all persons under their supervision and to make such reports relating to such persons as the board of pardons or the parole board shall require;
3. To make such investigations and perform such other duties in connection with applications and petitions for pardon, commutation of sentence, or parole as may be prescribed by the board of pardons or the parole board; or
4. To perform such other duties as the board of pardons or the parole board may assign to them.

§ 36. **Amendment.** Section 12-55-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-55-10. General Powers of Board of Pardons.) The board of pardons may issue process requiring the presence of any person or officer before it, with or without books and papers, in any matters pending before said board. If any such person or officer disobeys the order of the board, the chairman, or acting chairman, of such board, may apply to any judge of the district court for an order requiring the attendance of such person or officer, with or without books and papers described in the process. The failure of any such person or officer to comply with such order of the district court shall be held to be a contempt of court and shall be punishable accordingly. Any member of the board of pardons, the parole officer, or anyone appointed by the board to secure information for said board, shall have the power to examine witnesses and records, and to administer oaths to witnesses. Any witness testifying falsely after the oath has been administered to him shall be guilty of perjury and shall be punished accordingly. It may employ psychiatrists or specialists for mental or medical examination of applicants before the board, and may take such reasonable steps as it may deem necessary for proper determination of any matters before it.

§ 37. Amendment.) Section 12-55-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-55-17. Application for Pardon, Reprieve, or Commutation of Sentence—When and Where Filed.) All applications for pardon, reprieve, or commutation of sentence shall be filed with the clerk of the board of pardons. All applications for pardon must be filed at least six weeks before the meeting of the board at which the hearing is sought.

§ 38. Amendment.) Section 12-55-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-55-18. Contents of Application for Clemency.) An application for a pardon, reprieve, or commutation of sentence shall be in writing, addressed to the board of pardons, and shall be signed by the convict or some person in his behalf. It shall state concisely the ground upon which the pardon, reprieve, or commutation is sought, and in addition shall contain the following facts:

1. The name under which the convict was indicted, informed against, and convicted, and every alias by which he has been known;
2. The date and the terms of the sentence imposed against him and the name of the offense for which it was imposed;

3. The name of the trial judge and the state's attorney who participated at the trial of the convict, together with the name of the county in which he was tried;
4. A concise statement of the evidence adduced at the trial with the endorsement of the trial judge or state's attorney who participated at the trial, that the same is substantially correct, or if such statement and endorsement are not furnished, the reason therefor shall be stated;
5. If an appeal was taken from the judgment of conviction, the date of the final determination by the supreme court and a transcript of the evidence adduced at the trial shall be furnished;
6. The age, birthplace, parentage, occupation, and the residence during the five years immediately preceding conviction of the convict;
7. A statement of other arrests, indictments, informations, and convictions, if any, against the convict; and
8. Such other information as the board of pardons from time to time may require under rules and regulations adopted by it.

§ 39. Amendment.) Section 12-55-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-55-19. Hearing on Application for Pardon, Emergency Parole, or Commutation.) Applications for pardon, except in cases of extreme emergency, shall be heard only at the three regular meetings of the board of pardons. Applications for pardon, commutation, or emergency parole may be heard at a special meeting called in case of an emergency, but no such application shall be heard unless there is filed a written statement signed by the applicant or someone in his behalf, setting forth the facts as to the emergency. The board first shall determine whether an emergency does in fact exist, and if it finds that there is no emergency, no further action shall be taken. If the board finds that there is an emergency, a hearing may be had upon such notice to the judge and the state's attorney who participated in the trial as the board may deem sufficient.

§ 40. Amendment.) Section 12-55-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-55-20. Notice of Application for Clemency—to Whom and by Whom Given—Service.) Notice of an application for a pardon, reprieve, or commutation of sentence, and of the time and place of hearing the same, shall be given by the clerk of the board of pardons to the judge and the state's

attorney who participated in the trial of the applicant, and if the judge or state's attorney is no longer in office, notice also shall be given to his successor in office. Such notice shall set forth the name of the person making application for clemency, the crime of which he was convicted, the time and place of the conviction, the sentence imposed, the name of the judge who presided over the trial, and the name of the state's attorney who prosecuted the trial of the applicant. Service of such notice shall be made by registered or certified mail.

§ 41. Amendment.) Section 12-55-21 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-55-21. Posting of Notice of Application in Certain Cases.)

If the applicant for a pardon, reprieve, or commutation of sentence is serving under a conviction for murder, manslaughter in the first degree, rape by force, kidnaping, or robbery in the first degree, the notice described in section 12-55-20, in addition to being served as therein specified, shall be posted in a conspicuous place at the front door of the courthouse in the county in which the information was filed or indictment returned for four consecutive weeks prior to the hearing. Proof of the posting of such notice shall be filed with the clerk of the board before the hearing.

§ 42. Amendment.) Section 12-55-22 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-55-22. Board May Reconsider Action.) The board of pardons may reconsider its action in granting a pardon to any convict at any time before such convict has been released and finally discharged from the penitentiary. Such action may be taken on the board's own motion or on the petition of interested parties.

§ 43. Amendment.) Section 12-55-30 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-55-30. Official Statements of Judge and State's Attorney—Contents.) The judge before whom any person has been convicted of a felony and the state's attorney of the county in which the crime was committed shall file separate official statements with the clerk of court having the records in the case showing:

1. The facts and circumstances constituting and surrounding the crime of which the prisoner was convicted;
2. The age of the prisoner as nearly as can be ascertained;

3. All information accessible in regard to the career of the prisoner prior to the time of the commission of the crime of which he was convicted;
4. All available information in regard to the prisoner's habits, associates, disposition, and reputation;
5. All other facts and circumstances which may indicate whether or not the prisoner is capable of becoming a law abiding citizen; and
6. The reasons of the state's attorney for recommending the sentence recommended and the reasons of the court for imposing the particular sentence imposed, whether the sentence be indeterminate or for a fixed term.

The judge and the state's attorney, or either of them, may make any recommendations or suggestions pertaining to the prisoner which may be of assistance to the board of pardons or the parole board in considering the prisoner's case.

§ 44. **Amendment.**) Section 12-55-32 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-55-32. Governor to Report Reprieves, Remissions, Commutations, and Pardons to Legislative Assembly.) The governor shall communicate to the legislative assembly at each regular session thereof each case of remission of fine, reprieve, commutation, or pardon granted by the board of pardons, stating the name of the convict, the crime for which he was convicted, the sentence and its date, and the date of the remission, commutation, pardon, or reprieve.

§ 45. **Repeal.**) Sections 12-53-02, 12-55-08, 12-55-09, 12-55-13, 12-55-14, 12-55-16, 12-55-25, 12-55-26, and 12-55-26.1 of the North Dakota Century Code are hereby repealed.

Approved March 14, 1963.

DEBTOR AND CREDITOR RELATIONSHIP

CHAPTER 125

S. B. No. 215

(George, Trenbeath, Wadeson, Kautzmann, Van Horn, Hernett,
(Reichert, Solberg, Lips)

BANK INSTALLMENT LOAN CHARGES

AN ACT

To provide for maximum rates of charge for installment bank loans.

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

§ 1. Installment Bank Loan Charges.) Any bank organized under the laws of this state and under the jurisdiction and supervision of the state banking board, or any national banking association doing business in the state, making any loan of money not exceeding thirty-six hundred dollars repayable in installments, may make a charge for such loan computed at a rate not exceeding six dollars per one hundred dollars per annum upon the total amount of the loan from the date thereof until the stated maturity date of the final installment thereof, which shall not exceed three years and thirty-two days from the date of the loan, notwithstanding that such loan is required to be repaid in installments or that the loan is secured by mortgage, pledge, or other collateral, except that this Act shall not apply to loans secured by realty. Any charge authorized by this Act may be deducted in advance from the proceeds of such loan or may be included in the principal amount of the note or other instrument evidencing said loan and the aggregate amount thereof be payable in installments.

§ 2. Charge on Default.) An installment bank loan may provide for the payment by the borrower of a delinquency and collection charge in an amount not in excess of five percent of the delinquent installment or five dollars whichever is less on each installment in default when such default continues for a period of more than ten days provided that only one such delinquency and collection charge may be collected on any such installment regardless of the period during which it remains in default.

§ 3. Prepayment—Refund.) The borrower may at any time prepay the entire balance of a bank installment loan made under the provisions of this Act at any time, and upon such prepayment the borrower shall be entitled to a refund, the

amount of which shall represent at least as great a proportion of the original loan charge as the sum of the periodic time balances after the month in which prepayment is made bears to the sum of all the periodic time balances under the schedule of installments in the original contract.

Filed March 11, 1963.

Not approved or disapproved by Governor.

DOMESTIC RELATIONS AND PERSONS

CHAPTER 126

S. B. No. 113
(Longmire)

SERVICEMEN'S RESIDENCE

AN ACT

To create and enact section 14-03-01.1 and to amend and reenact section 14-03-10 of the North Dakota Century Code, relating to the residence of members of the armed forces stationed within North Dakota for domestic relations purposes.

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

§ 1.) Section 14-03-01.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

14-03-01.1. Members of Armed Forces Deemed Residents.)

For the purpose of instituting any action or proceeding in the courts of this state, under the provisions of this title, in which residence is a requirement, any member of any branch of the armed forces of the United States who is stationed within the state, and the wife or husband of such member, if she or he be living within the state, shall be deemed to be a resident of the state of North Dakota.

§ 2. **Amendment.)** Section 14-03-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

14-03-10. Marriage May Not Be Solemnized Without License—Residence Required.) No person shall solemnize any marriage until the parties thereto shall produce a license regularly issued not more than sixty days prior to the date of such marriage by the county judge of the county in which either of the contracting parties or the parents of either of the parties resides, or if such county is unorganized, or disorganized, of the county to which it is attached for judicial purposes, or if the contracting parties are residents of another state by the county judge of the county wherein the marriage is to be solemnized according to the terms of section 14-03-19. For the purpose of obtaining a marriage license, a member of the armed forces of the United States stationed within the state of North Dakota shall be deemed to reside in the county wherein he is stationed.

Approved February 21, 1963.

CHAPTER 127

S. B. No. 246
(Brooks, Holand)

DENIAL OF DIVORCE

AN ACT

To amend and reenact section 14-05-10 of the North Dakota Century Code, relating to grounds for divorce and to repeal section 14-05-15 of the North Dakota Century Code relating to recrimination.

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

§ 1. Amendment.) Section 14-05-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

14-05-10. Denial of Divorce.) Divorces must be denied upon showing:

1. Connivance;
2. Collusion;
3. Condonation; or
4. Limitation and lapse of time.

§ 2. Repeal.) Section 14-05-15 of the North Dakota Century Code is hereby repealed.

Approved March 6, 1963.

CHAPTER 128

H. B. No. 836
(Johnston)

TWENTY-FIRST BIRTHDAY CARDS

AN ACT

To provide for issuance of twenty-first birthday cards.

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

§ 1. Twenty-First Birthday Cards — Application — Misrepresentation of Age—Penalty.) Every person who attains the age of twenty-one years may apply to the clerk of the district court of the county in which the person resides or is temporarily located, on a form provided by the clerk of the district court, for a twenty-first birthday card, which shall be accom-

panied with a photograph of the applicant. The applicant shall present with the application his birth certificate or other satisfactory evidence that he is twenty-one years of age, and shall pay a fee of \$1.50, to be deposited in the county general fund. The clerk shall file the application and issue the card to the applicant in a form prescribed by the clerk. The applicant shall sign the card with his name, and the card shall thereafter be exhibited upon demand of a licensee, employee or other person selling, giving or disposing of alcoholic beverages or of any peace officer. Any misrepresentation of age or other deceit practiced in the procurement of a card, or the use or exhibition for the purpose of procuring alcoholic beverages of a card belonging to a person other than the person exhibiting the card, is a misdemeanor.

Approved March 13, 1963.

CHAPTER 129

S. B. No. 315

(Longmire, Wartner, Ringsak)

ADOPTION HEARINGS

AN ACT

To amend and reenact section 14-11-10 of the North Dakota Century Code Supplement, relating to hearing in adoption proceedings and service of notice thereof.

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

§ 1. **Amendment.)** Section 14-11-10 of the North Dakota Century Code Supplement is hereby amended and reenacted to read as follows:

14-11-10. Hearing in Adoption Proceedings and Service of Notice Thereof.) The court shall appoint a time and place for hearing the petition and shall allow reasonable time not exceeding forty days for the investigation required by section 14-11-09. Notice of the hearing, unless waived in writing by the respondent, shall be given to the director of the division of child welfare at least twenty days before the hearing in such manner as the court may direct and proof thereof shall be filed with the clerk of the court prior to the hearing on said petition. Whenever a minor child to be adopted has a guardian, notice of the hearing shall be given to such guardian. When the parents of any minor child are dead or have abandoned the child and cannot be found, and the child has no duly appointed guardian in the state, notice of the hearing on

the petition for adoption shall be given to the person who is caring for or has custody of the child. Notice must be given to any parent not consenting, whose parental rights have not been terminated, including a parent who has lost custody of the child through divorce proceedings, a parent who is insane or otherwise incapable of giving consent, and to the father of an illegitimate child who has acknowledged paternity or against whom paternity has been adjudicated, unless the father has disclaimed in writing all parental rights with reference to the child. Such notice shall be given in such a manner as the court may direct. In the event that the court shall require notice to be given by publication, such notice shall be published once a week for three successive weeks, the last publication to be at least ten days prior to the day set for the hearing. If the hearing cannot be had at the time appointed it shall be adjourned and the court may upon its own motion or upon motion of any interested person fix another time for the hearing and upon such hearing may grant or deny the petition or grant a further adjournment. The petitioner and the person to be adopted, if over ten years of age, shall attend the hearing unless the court otherwise orders.

Approved March 8, 1963.

CHAPTER 130

S. B. No. 348

(Longmire, Wartner, Ringsak)

CHILD PLACEMENT COMPACT

AN ACT

To enact an interstate compact with other member states of the compact, relating to the interstate placement of children for the purposes of foster care or adoption and for the placement of delinquent children in institutions in other member states.

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

§ 1. **Establishment of Interstate Compact—Text.)** The Interstate Compact on the Placement of Children is hereby enacted into law and entered into with all other jurisdictions legally joining therein in form substantially as follows:

Article I—Purpose and Policy.

It is the purpose and policy of the party states to cooperate with each other in the interstate placement of children to the end that:

1. Each child requiring placement shall receive the maximum opportunity to be placed in a suitable environment and with persons or institutions having appropriate qualifications and facilities to provide a necessary and desirable degree and type of care.
2. The appropriate authorities in a state where a child is to be placed may have full opportunity to ascertain the circumstances of the proposed placement, thereby promoting full compliance with applicable requirements for the protection of the child.
3. The proper authorities of the state from which the placement is made may obtain the most complete information on the basis of which to evaluate a projected placement before it is made.
4. Appropriate jurisdictional arrangements for the care of children will be promoted.

Article II—Definitions.

As used in this compact:

1. "Child" means a person who, by reason of minority, is legally subject to parental, guardianship or similar control.
2. "Sending agency" means a party state, officer or employee thereof; a subdivision of a party state, or officer or employee thereof; a court of a party state; a person, corporation, association, charitable agency or other entity which sends, brings, or causes to be sent or brought any child to another party state.
3. "Receiving state" means the state to which a child is sent, brought, or caused to be sent or brought, whether by public authorities or private persons or agencies, and whether for placement with state or local public authorities or for placement with private agencies or persons.
4. "Placement" means the arrangement for the care of a child in a family free or boarding home or in a child-caring agency or institution but does not include any institution caring for the mentally ill, mentally defective or epileptic or any institution primarily educational in character, and any hospital or other medical facility.

Article III—Conditions for Placement.

1. No sending agency shall send, bring, or cause to be sent or brought into any other party state any child for placement in foster care or as a preliminary to a possible adoption unless the sending agency shall comply with each and every requirement set forth in this article and with the applicable laws of the receiving state governing the placement of children therein.

2. Prior to sending, bringing, or causing any child to be sent or brought into a receiving state for placement in foster care or as a preliminary to a possible adoption, the sending agency shall furnish the appropriate public authorities in the receiving state written notice of the intention to send, bring, or place the child in the receiving state. The notice shall contain:
 - a. The name, date and place of birth of the child.
 - b. The identity and address or addresses of the parents or legal guardian.
 - c. The name and address of the person, agency or institution to or with which the sending agency proposes to send, bring, or place the child.
 - d. A full statement of the reasons for such proposed action and evidence of the authority pursuant to which the placement is proposed to be made.
3. Any public officer or agency in a receiving state which is in receipt of a notice pursuant to paragraph 2 of this article may request of the sending agency, or any other appropriate officer or agency of or in the sending agency's state, and shall be entitled to receive therefrom, such supporting or additional information as it may deem necessary under the circumstances to carry out the purpose and policy of this compact.
4. The child shall not be sent, brought, or caused to be sent or brought into the receiving state until the appropriate public authorities in the receiving state shall notify the sending agency, in writing, to the effect that the proposed placement does not appear to be contrary to the interests of the child.

Article IV—Penalty for Illegal Placement.

The sending, bringing, or causing to be sent or brought into any receiving state of a child in violation of the terms of this compact shall constitute a violation of the laws respecting the placement of children of both the state in which the sending agency is located or from which it sends or brings the child and of the receiving state. Such violation may be punished or subjected to penalty in either jurisdiction in accordance with its laws. In addition to liability for any such punishment or penalty, any such violation shall constitute full and sufficient grounds for the suspension or revocation of any license, permit, or other legal authorization held by the sending agency which empowers or allows it to place, or care for children.

Article V—Retention of Jurisdiction.

1. The sending agency shall retain jurisdiction over the child sufficient to determine all matters in relation to

the custody, supervision, care, treatment and disposition of the child which it would have had if the child had remained in the sending agency's state, until the child is adopted, reaches majority, becomes self-supporting or is discharged with the concurrence of the appropriate authority in the receiving state. Such jurisdiction shall also include the power to effect or cause the return of the child or its transfer to another location and custody pursuant to law. The sending agency shall continue to have financial responsibility for support and maintenance of the child during the period of the placement. Nothing contained herein shall defeat a claim of jurisdiction by a receiving state sufficient to deal with an act of delinquency or crime committed therein.

2. When the sending agency is a public agency, it may enter into an agreement with an authorized public or private agency in the receiving state providing for the performance of one or more services in respect of such case by the latter as agent for the sending agency.
3. Nothing in this compact shall be construed to prevent a private charitable agency authorized to place children in the receiving state from performing services or acting as agent in that state for a private charitable agency of the sending state; nor to prevent the agency in the receiving state from discharging financial responsibility for the support and maintenance of a child who has been placed on behalf of the sending agency without relieving the responsibility set forth in paragraph 1 hereof.

Article VI—Institutional Care of Delinquent Children.

A child adjudicated delinquent may be placed in an institution in another party jurisdiction pursuant to this compact but no such placement shall be made unless the child is given a court hearing on notice to the parent or guardian with opportunity to be heard, prior to his being sent to such other party jurisdiction for institutional care and the court finds that:

1. Equivalent facilities for the child are not available in the sending agency's jurisdiction; and
2. Institutional care in the other jurisdiction is in the best interest of the child and will not produce undue hardship.

Article VII—Compact Administrator.

The executive head of each jurisdiction party to this compact shall designate an officer who shall be general coordinator of activities under this compact in his jurisdiction and who,

acting jointly with like officers of other party jurisdictions, shall have power to promulgate rules and regulations to carry out more effectively the terms and provisions of this compact.

Article VIII—Limitations.

This compact shall not apply to:

1. The sending or bringing of a child into a receiving state by his parent, step-parent, grandparent, adult brother or sister, adult uncle or aunt, or his guardian and leaving the child with any such relative or non-agency guardian in the receiving state.
2. Any placement, sending or bringing of a child into a receiving state pursuant to any other interstate compact to which both the state from which the child is sent or brought and the receiving state are party, or to any other agreement between said states which has the force of law.

Article IX—Enactment and Withdrawal.

This compact shall be open to joinder by any state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and, with the consent of Congress, the Government of Canada or any province thereof. It shall become effective with respect to any such jurisdiction when such jurisdiction has enacted the same into law. Withdrawal from this compact shall be by the enactment of a statute repealing the same, but shall not take effect until two years after the effective date of such statute and until written notice of the withdrawal has been given by the withdrawing state to the governor of each other party jurisdiction. Withdrawal of a party state shall not affect the rights, duties and obligations under this compact of any sending agency therein with respect to a placement made prior to the effective date of withdrawal.

Article X—Construction and Severability.

The provisions of this compact shall be liberally construed to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the Constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the Constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force as to the state affected as to all severable matters.

§ 2. Determination of Financial Responsibility.) Financial responsibility for any child placed pursuant to the provisions of the Interstate Compact on the Placement of Children shall be determined in accordance with the provisions of Article V thereof in the first instance. However, in the event of partial or complete default of performance thereunder, the provisions of North Dakota laws fixing responsibility for the support of children also may be invoked.

§ 3. Definitions.) In this Act unless the context or subject matter otherwise requires:

1. "Appropriate public authorities" as used in Article III of the compact shall, with reference to this state, mean the division of child welfare of the public welfare board of North Dakota, and such division shall receive and act with reference to notices required by said Article III.
2. "Appropriate authority in the receiving state" as used in paragraph 1 of Article V of the compact with reference to this state shall mean the director of the division of child welfare of the public welfare board of North Dakota.

§ 4. Authority to Enter Into Agreements—Limitation.) The officers and agencies of this state and its subdivisions having authority to place children are hereby empowered to enter into agreements with appropriate officers or agencies of or in other party states pursuant to paragraph 2 of Article V of the Interstate Compact on the Placement of Children. Any such agreement which contains a financial commitment or imposes a financial obligation on this state or subdivision or agency thereof shall not be binding unless it has the approval in writing of the governor in the case of the state and of the chief local fiscal officer in the case of a subdivision of the state.

§ 5. Inspection and Supervision in Other State.) Any requirements for visitation, inspection or supervision of children, homes, institutions or other agencies in another party state which may apply under section 50-11 of the North Dakota Century Code shall be deemed to be met if performed pursuant to an agreement entered into by appropriate officers or agencies of this state or a subdivision thereof as contemplated by paragraph 2 of Article V of the Interstate Compact on the Placement of Children.

§ 6. Restrictions Not To Apply.) The provisions of section 50-12-16 of the North Dakota Century Code shall not apply to placements made pursuant to the Interstate Compact on the Placement of Children.

§ 7. Placement of Delinquent Children.) Any court having jurisdiction to place delinquent children may place such a

child in an institution of or in another state pursuant to Article VI of the Interstate Compact on the Placement of Children and shall retain jurisdiction as provided in Article V thereof.

§ 8. Governor to Appoint Compact Administrator.) As used in Article VII of the Interstate Compact on the Placement of Children, the term "executive head" means the governor. The governor is hereby authorized to appoint a compact administrator in accordance with the terms of said Article VII.

§ 9. Effective Date.) This Act shall be effective July 1, 1963.

Approved March 18, 1963.

EDUCATION

CHAPTER 131

H. B. No. 719

(Fossum, Streibel, Anderson (McHenry), Backes, Reimers,
(Maragos, Hauf, Vendsel, Baldwin))

HIGHER EDUCATION STUDY

AN ACT

Directing a study by the legislative research committee and the board of higher education of the future role and responsibility of each institution of higher learning, development of a ten-year plan to provide needed facilities, participation in interstate and regional compacts in higher education, and making an appropriation.

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

§ 1. Development of Higher Education in State.) WHEREAS, there is not presently available a complete and adequate study or plan for higher education in North Dakota to serve as a guide for the development of higher education within the state, the assignment of programs and areas of instruction to state institutions of higher learning, and the division of areas of responsibility among them; and

WHEREAS, the system of higher education in North Dakota has at times been criticized as having developed and flourished, or having been retarded, in accordance with local pride, alumni loyalty, and other factors not necessarily related to the needs of the state, the duplication that might result, or the costs that may result; and

WHEREAS, the increasing student enrollments and the ever-increasing costs of providing adequate educational opportunities may well create financial problems to the state of overwhelming proportions and seriously weaken the quality of education offered by the state unless the limited funds that will be available during the next ten years are expended in the areas of greatest need in as efficient a manner as possible, giving the greatest possible return in higher education for each dollar expended.

§ 2.) The legislative research committee, in accordance with the provisions of chapter 54-35, with the aid and cooperation of the board of higher education, is hereby authorized and directed to carry on a study of the field of higher education in the state of North Dakota for the purpose of

developing a ten-year plan to guide the legislative assembly, the board of higher education, and the institutions of higher learning in adequately and efficiently providing necessary and essential educational opportunities in the most economical manner possible. In the course of such study, special emphasis shall be given to:

1. The future role and scope of responsibility of each state institution of higher learning, including programs and areas of instruction which it shall participate in or be responsible for.
2. A determination of the classrooms, laboratories, libraries, dormitories or other housing, dining facilities, heating plants, service buildings, student centers, or other facilities that will be essential to the operations of such institutions during the period from 1965 to 1975.
3. An evaluation of the impact and benefits from participation in reciprocal agreements and interstate or regional compacts developed for the promotion of a common market in education in the midwestern region of this country.

The legislative research committee shall appoint a subcommittee consisting of members of the senate and of the house of representatives to carry on such study in such manner as it may direct, and shall appoint all members of the board of higher education as advisory members of such committee. The commissioner of higher education shall also serve as an advisor to the subcommittee and shall provide such information, aid, and assistance as may be requested by the subcommittee. Each department, agency, and institution shall provide such information, aid, and assistance to the subcommittee as it may from time to time request. The subcommittee shall be authorized to employ by contract or otherwise such persons or public or private agencies or entities as it may deem necessary to aid and assist it in carrying out this study.

The legislative research committee shall make its report and recommendations, together with such legislation as may be necessary to carry out such recommendations, to the Thirty-ninth Legislative Assembly.

§ 3. Appropriation.) There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, to the legislative research committee, the sum of ten thousand dollars or so much thereof as may be necessary, for the purpose of carrying on a study of higher education as provided in this Act during the biennium beginning July 1, 1963, and ending June 30, 1965.

Approved March 21, 1963.

CHAPTER 132

H. B. No. 618

(Twetten, Anderson (Richland), Fossum)

BONDS FOR REVENUE-PRODUCING BUILDINGS

AN ACT

To authorize the state board of higher education to sell tax-exempt bonds and provide for the use of the proceeds of such bonds for the purpose of constructing revenue-producing buildings at institutions of higher learning in this state.

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

§ 1.) In accordance with the provisions of chapter 15-55 of the North Dakota Century Code, the state board of higher education is hereby authorized and empowered to issue and sell tax-exempt bonds for the purpose of constructing revenue-producing buildings at institutions of higher learning in this state under the jurisdiction of the board, at such maximum amounts, at such locations, and for such purposes as is hereinafter provided:

1. University of North Dakota, Grand Forks, North Dakota
 - a. Dormitories and dining facilities\$5,000,000.00
 - b. Dormitory-type buildings to be leased to student groups 525,000.00
 - c. Married student housing 900,000.00
 - d. Addition to student union 200,000.00
2. North Dakota State University, Fargo, North Dakota
 - a. Dining facilities 600,000.00
3. State School of Forestry, Bottineau, North Dakota
 - a. Dormitory, 3rd floor 30,000.00
4. State Teachers College, Dickinson, North Dakota
 - a. Dormitory 750,000.00
5. State Teachers College, Mayville, North Dakota
 - a. Additional funds for student union previously approved in chapter 147 of the 1961 Session Laws 150,000.00
6. State Teachers College, Minot, North Dakota
 - a. Women's dormitory 550,000.00

7. State Teachers College, Valley City, North Dakota	
a. Additional funds for women's dormi- tory previously approved in chapter 147 of the 1961 Session Laws	125,000.00
b. Additional funds for married student housing previously approved in chap- ter 147 of the 1961 Session Laws	208,000.00
8. State School of Science, Wahpeton, North Dakota	
a. Two men's dormitories	1,100,000.00
b. One women's dormitory	400,000.00
c. Dining facilities	140,000.00
d. Purchase of Lucy Ramstad property described as:	
The west one-half of lot five, the west one-half of the east one-half of lot five, and all of lot six, block fifteen, R. S. Tyler's Addition to the city of Wahpeton, county of Richland, North Dakota	25,000.00

The bonds authorized by this Act for the construction of married student housing shall be retired solely from revenues from such buildings. Bonds issued under the provisions of this Act shall never become a general obligation of the state of North Dakota.

§ 2.) The proceeds resulting from the sale of bonds authorized under section 1 of this Act, or so much thereof as may be necessary, are hereby appropriated for the construction and equipment of the buildings and facilities authorized in section 1. Any unexpended proceeds from the sale of the bonds shall be placed in sinking funds for the retirement of the bonds authorized in section 1.

Approved March 14, 1963.

CHAPTER 133

H. B. No. 666

(Schnell, Kitzmann, Elkin, Bratcher, Weber, Olienyk,
(Meyer, Gietzen)

FARM LOAN LIMITATIONS

AN ACT

To amend and reenact section 15-03-07 of the North Dakota Century Code to authorize loans to legal entities and to remove present limits of amount and valuation on farm loans made by the board of university and school lands of the state of North Dakota.

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

§ 1. Amendment.) Section 15-03-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-03-07. Limitations on Farm Loans.) Farm loans secured by a first mortgage shall be made only upon farm land in this state, and only to persons or other legal entities who are actual residents of this state. Loans shall be made in an amount not to exceed fifty percent of the actual value of the land to be mortgaged. Such value is to be determined by the county board of appraisal of school lands.

Approved March 4, 1963.

CHAPTER 134

H. B. No. 658

(Skaar, Erickson)

FARM LOAN PROCEDURE

AN ACT

To amend and reenact section 15-03-08 of the North Dakota Century Code to provide that in the making of board of university and school lands farm loans, the land commissioner rather than the county treasurer shall obtain and file releases, ascertain amounts of fees, disburse funds and forward all abstracts and other instruments in connection therewith to the state treasurer.

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

§ 1. Amendment.) Section 15-03-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-03-08. Warrant for Amount of Loan—Payable to State Land Commissioner—Disbursement.) If the attorney general certifies that the title of an applicant for a loan is satisfactory and that the encumbrances do not exceed the amount of the loan, the state auditor shall draw his warrant for the amount of the loan in favor of the state land commissioner. The state land commissioner shall obtain and file, with the proper county officer, the releases necessary to discharge the land of all encumbrances, as stated in the certificate. The state land commissioner shall ascertain the amount of the unpaid fees for the recording, appraisal, and abstracts in connection with the loan. The state land commissioner then shall draw checks disbursing the proceeds of the loan in the following order:

1. In payment of unpaid recording, appraisal, and abstract fees, and delinquent taxes;
2. To each of the parties holding an encumbrance against the property, if any, in the amount of the encumbrance; and
3. The balance to the applicant.

The state land commissioner shall cause all releases to be recorded and continued on the abstract and shall forward the abstract and all other instruments in connection with the loan to the state treasurer.

Approved March 4, 1963.

CHAPTER 135

S. B. No. 269

(Kamrath, Lips, George)

COLLECTION OF RENTALS ON STATE LAND

AN ACT

To amend and reenact section 15-04-15 of the North Dakota Century Code to provide that in the collection of rentals on behalf of the state land commissioner's office, the state land commissioner rather than the county treasurer shall collect rentals due and give receipts therefor.

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

§ 1. Amendment.) Section 15-04-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-04-15. Collection of Rentals—Receipts.) The lessee of any land leased under the provisions of this chapter, or his heirs, executors, administrators, or assigns shall pay to the

state land commissioner at his office in Bismarck, North Dakota or to his duly appointed agent any amounts that may become due from time to time upon the lease. For the amount paid, the state land commissioner shall give to the person making the payment a duplicate receipt, specifying the amount paid, the date of payment, the number of the lease, the description of the land for which the payment is made, the name of the person making the payment, the nature of the payment, whether for rent, interest, or penalty, and for what year. A separate receipt shall be given for each lease and a separate receipt for each year's payment.

Approved March 4, 1963.

CHAPTER 136

H. B. No. 594
(Davis of Dunn)

WITHDRAWAL OF CERTAIN SCHOOL LANDS, REPEAL

AN ACT

To repeal section 15-06-21 of the North Dakota Century Code, relating to school lands withdrawn from sale except for park purposes.

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

§ 1. Repeal.) Section 15-06-21 of the North Dakota Century Code is hereby repealed.

Approved March 7, 1963.

CHAPTER 137

H. B. No. 667

(Schnell, Elkin, Kitzmann, Bratcher, Weber, Olienyk, Olson)

TERMS FOR SCHOOL LAND SALES

AN ACT

To amend and reenact section 15-06-27 of the North Dakota Century Code, relating to granting discretion as to re-sale of tracts of board of university and school land during public auction and changing penalty for violation of section.

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

§ 1. **Amendment.)** Section 15-06-27 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-06-27. Terms of Sale—Sale to Highest Bidder—Penalty for Failure to Make First Payment.) The highest bidder for any tract of land offered for sale under this chapter shall be declared the purchaser thereof. The purchaser shall pay twenty percent of the purchase price at the time the contract is executed; thereafter annual payments shall be made of not less than six percent of the original purchase price. An amount equal to not less than three percent per annum of the unpaid principal shall be credited to interest and the balance shall be applied as payment on principal as credit on the purchase price. If the purchaser fails to pay the amount required to be paid at the time of sale, the commissioner or other person conducting the sale may re-offer the tract for sale immediately, but no bid shall be received from the person failing to pay as aforesaid. Any person refusing or neglecting to make such initial payment after purchase shall forfeit an amount equal to ten percent of the purchase price or final bid to be recovered for the benefit of the fund to which the land belongs by civil suit in the name of the state.

Approved March 4, 1963.

CHAPTER 138

S. B. No. 132

(Becker, Berube, Kisse, Robinson, Kjos, Sanford)

FOREST MANAGEMENT ON SCHOOL LANDS

AN ACT

To amend and reenact section 15-06-38 and section 15-06-39 of the North Dakota Century Code, to provide for forest management on the basis of suitability rather than valuation, to provide for good forestry practices, authorizing issuance of hay permits thereon and making appropriate corrections.

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

§ 1. **Amendment.)** Section 15-06-38 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-06-38. Forest Management Authorized—Discontinuance.)

The board of university and school lands is hereby authorized, in its discretion, to designate any original grant lands more readily suitable for forestry than for agricultural purposes and suitable for forest management, may direct the state forester to assume full control over the same and to apply accepted good forestry practices in the care, reforestation, fire control, and management thereof. The board may, at the end of any five year period of such control discontinue such control and assume sole control of any lands so placed in the control of the state forester, provided that the return of such control to the board of university and school lands does not interrupt a program of forest management already in progress for which additional time is needed.

§ 2. **Amendment.)** Section 15-06-39 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-06-39. State Forester to Control Lands Designated for Forest Management.) The state forester shall assume control over all lands so designated and proceed to develop and improve the same by applying thereto accepted good forestry practices in the management and improvement thereof for the purpose of protecting and improving the forest potential of such lands and producing income through sustained yield management by the sale of forest products produced thereon, such sales to be made under the direction and at the discretion of the state forester. The state forester further may issue permits for the cutting and removal of hay on and from the

land under his control at a price to be determined by the board of university and school lands, subject to the rules and regulations adopted by the state forester and board of university and school lands.

Approved March 4, 1963.

CHAPTER 139

H. B. No. 668

(Schnell, Kitzmann, Bratcher, Maragos, Olienyk, Bier, Gietzen,
(Meyer, Skaar, Erickson, Tough, Olson, Elkin)

REDEMPTION OF SCHOOL LANDS

AN ACT

To amend and reenact section 15-08-13 of the North Dakota Century Code, to limit the period of redemption subsequent to cancellation of board of university and school lands contracts for sale of land, to one year, to limit the period of redemption subsequent to foreclosure of board of university and school land mortgages to one year, eliminating the right of the board of university and school lands to cut off such redemption rights by resale of such lands and to make such provisions retroactive, one year after the effective date of this Act.

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

§ 1. Amendment.) Section 15-08-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-08-13. Redemption from Cancellation of Contracts or Foreclosure of Mortgages.) Where the rights of a purchaser under a contract become forfeited under the provisions of this chapter, such purchaser, his heirs or assigns, during a period of one year from the date of such cancellation, may pay to the commissioner of university and school lands all past due payments on principal and the amount of interest due and payable on the contract, together with all costs which have been incurred in addition thereto, and interest at the rate of four percent per annum on the interest and costs so due from the date of delinquency to the date of payment, and such payment shall operate as a redemption of the rights of such purchaser, his heirs or assigns, and such contract, from the time of such payment, shall be reinstated. As a part of such redemption, he shall pay taxes due or delinquent at the time of the cancellation or foreclosure. If the contract which has been canceled was a contract for crop share payments, the purchaser, his heirs or assigns, to redeem from such cancellation, shall pay all sums delinquent on such contract,

including taxes, and shall pay to the commissioner the average of the income from lands described in such contract for the three years preceding such cancellation, for each year from such cancellation to the date of payment, and the further sum of fifty dollars, which shall be credited upon the unpaid principal. When a redemption has been made from the cancellation of any contract, a certified copy of the resolution of the board of university and school lands rescinding the resolution of cancellation shall be forwarded to the county auditor. A certified copy of such resolution may be recorded in the office of the register of deeds in the county in which such land is situated. When a mortgage held by the board has been foreclosed and a sheriff's deed issued to the state, such mortgagor, his heirs or assigns, during the period of one year from the date of such foreclosure, may redeem the lands by paying all past due, deferred, and interest payments, together with all costs which have been incurred through the foreclosure of the mortgage, together with interest on such sums at the rate of four percent per annum. In the event of redemption of said lands from a foreclosure of a mortgage, the commissioner shall execute and deliver a contract of sale to the purchaser, his heirs or assigns, in the form prescribed by the board. No redemption shall be permitted after the name of a tax purchaser has been substituted in place of that of the contract holder or mortgagor. No redemption shall be permitted of any contract canceled, or mortgage foreclosed prior to the effective date of this Act, excepting only during the period of one year from said effective date of this Act.

Approved March 4, 1963.

CHAPTER 140

H. B. No. 712
(Aamoth)

WAIVER OF TUITION FOR INDUSTRIAL SCHOOL GRADUATES

AN ACT

To create and enact section 15-10-18.1 of the North Dakota Century Code, relating to the waiver of registration, matriculation, and tuition fees for the attendance at any state institution of higher education by a qualified graduate of the North Dakota industrial school.

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

§ 1.) Section 15-10-18.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

15-10-18.1. Waiver of Tuition at State Institutions for Industrial School Graduates.) Upon the recommendation of the superintendent of the North Dakota industrial school no registration, matriculation, or tuition fees shall be charged for the attendance at any state educational institution referred to in section 15-10-01 of five qualified graduates of such industrial school with whose care the superintendent is charged. The superintendent shall determine if a graduate is qualified and in so doing shall take into consideration such graduate's scholastic ability, character, financial need, personal-social characteristics, capacity, and willingness to take advantage of such college privileges, and his record or level of achievement.

Approved March 21, 1963.

CHAPTER 141

H. B. No. 609

(Olienyk, Elkin, Schnell, Maragos, Gronhovd,
(Davis (Dunn), Austin, Powers)

NONRESIDENT STUDENT DEFINED

AN ACT

To amend and reenact section 15-10-19 of the North Dakota Century Code, relating to tuition fees charged nonresident students and providing for exceptions.

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

§ 1. **Amendment.)** Section 15-10-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-10-19. Nonresident Student for Tuition Purposes Defined—Exceptions.) A nonresident student is defined as follows:

1. A student less than twenty-one years of age whose family resides in another state, a territory, or a foreign country, or whose family has resided within this state for a period of less than twelve months immediately prior to the date of his registration;
2. A student of the age of twenty-one years or over who resides outside of this state; or
3. A student of the age of twenty-one years or over who has moved into and become a resident of this state within a period of twelve months immediately prior to the date of registration.

Dependents of instructors who live in this state and teach in any institution of higher learning in this state, are excluded from the foregoing provisions, and shall be regarded as residents of this state for purposes of tuition, whether such dependents are over or under twenty-one years of age.

Approved March 14, 1963.

CHAPTER 142

S. B. No. 70

(Meidinger, Erickson, Foss, Reichert, Sorlie)

NAMES OF STATE NORMAL SCHOOLS

AN ACT

To amend and reenact section 15-13-01 of the North Dakota Century Code, relating to the names of the state normal schools.

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

§ 1. Amendment.) Section 15-13-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-13-01. Normal Schools—Location.) The state normal schools established at Valley City in the county of Barnes, at Mayville in the county of Traill, at Minot in the county of Ward, and at Dickinson in the county of Stark, and any other normal schools which may be established by law, shall be the normal schools of the state, and at such time as any such school shall offer curriculums leading to both the bachelor of science and bachelor of arts degrees, such school may be referred to as "State College", prefixed by the name of the applicable city.

Approved March 4, 1963.

CHAPTER 143

S. B. No. 141

(Lips, Sanford, George, Kamrath, Solberg, Kautzmann,
(Mahoney, Chesrown)

STATE AID FOR JUNIOR COLLEGES

AN ACT

To amend section 15-18-07 of the North Dakota Century Code, relating to state aid for junior colleges.

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

§ 1. **Amendment.)** Section 15-18-07 of the North Dakota Century Code Supplement is hereby amended and reenacted to read as follows:

15-18-07. State Aid for Junior Colleges or Educational Centers.) There shall be paid to each school district maintaining a junior college or educational center operated by a state-supported institution of higher education meeting the standards prescribed in section 15-18-08, out of funds appropriated for this purpose, the sum of two hundred dollars which shall be paid immediately preceding October first of each year, for every student in attendance during the two full semesters or fall, winter and spring quarters. In addition, the sum of one hundred dollars shall be paid immediately preceding October first of each year for every student in attendance during the two full semesters or fall, winter and spring quarters at a junior college or educational center, provided the school district, city or county shall levy taxes of not less than four mills for the support of such junior college or educational center in accordance with the provisions of sections 15-18-03, 15-18-04.2 or 15-18-05. For the purpose of this section, a "student" shall mean a person enrolled and in attendance, exclusive of temporary absences, in a junior college or educational center operated by a state-supported institution of higher education for a period of not less than thirty days, and carrying a course of study of not less than twelve class hours in courses meeting standards prescribed by the state board of higher education during each calendar week. A class hour shall mean not less than fifty minutes of instruction or supervised laboratory training. Each student enrolled for a period of more than thirty days in any one quarter or semester, but less than two complete semesters or three complete quarters shall entitle the school district to receive proportionate payments based upon the number of weeks the student is enrolled and in attendance, exclusive of

temporary absences, bears to the total weeks in the two complete semesters or three quarters. Such calculations shall exclude weeks of regular vacation time.

Approved March 21, 1963.

CHAPTER 144

S. B. No. 43
(Redlin, Berube, Roen)
(From LRC Study)

BOARD OF PUBLIC SCHOOL EDUCATION MEMBERSHIP

AN ACT

To amend and reenact section 15-21-17 of the North Dakota Century Code, relating to the composition of the state board of public school education.

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

§ 1. Amendment.) Section 15-21-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-21-17. Composition of State Board of Public School Education.) The state board of public school education shall consist of the superintendent of public instruction, and one qualified elector from each judicial district within the state, to be appointed by the governor subject to the consent of the senate. Nominations shall be made by the governor from a list of three names for each position to be filled on such board, such names to be selected by a committee consisting of the president of the North Dakota state's attorneys association, the president of the North Dakota school administrators association, and the president of the North Dakota school boards' association. Appointive members shall serve for terms of six years, arranged so that the term of two members shall expire on June 30 of each even numbered year. The governor shall fill vacancies upon the committee and all members so appointed as well as the members of the original committee shall possess all the powers of regularly appointed and confirmed members, pending confirmation by the senate or its refusal to confirm. At all times, two members of the board shall be members of the North Dakota school boards' association. The superintendent of public instruction shall also serve as executive director and secretary of such board, shall call such meetings as may be required, shall supervise and carry out the policies of the board in relation to all functions

of the board, and shall employ such personnel as shall be necessary to carry on such responsibilities as may be placed upon the board by law. The board shall annually elect a member of the board to serve as chairman. Appointive members shall be compensated at the rate of fifteen dollars per day for each day actually and necessarily spent in the performance of their duties as board members and all members shall receive reimbursement for actual necessary expenses incurred in the performance of their duties from the biennial appropriation of the department of public instruction at the same rates as provided by law for other state officers. The board shall have authority to call upon any state office, officer, department, or agency for such advice and assistance as it may from time to time require.

Approved March 21, 1963.

CHAPTER 145

H. B. No. 844

(Baldwin, Aamoth, Leahy, Stockman, Bergman)

DISSOLUTION OF SCHOOL DISTRICTS

AN ACT

To amend and reenact sections 15-22-21, as amended by chapter 157 of the 1961 Session Laws, and 15-22-22 of the North Dakota Century Code, providing for the dissolution of school districts and the attachment of dissolved districts to adjoining school districts, and declaring an emergency.

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

§ 1. Amendment.) Section 15-22-21 of the North Dakota Century Code as amended by chapter 157 of the 1961 Session Laws is hereby amended and reenacted to read as follows:

15-22-21. Dissolution of School Districts—Duty of County Superintendent.) The county superintendent of schools shall notify the county committee for the reorganization of school districts when any school district within the county has had its assessed valuation reduced to an amount which will no longer enable the district to raise sufficient funds to carry on normal school operations, or when any school district within the county has not operated a school for the immediately preceding two years providing pupils from such school district are not attending school in another state, upon receipt of such notice, the county committee shall forthwith give notice of hearing to dissolve the school district and shall

provide for its attachment to one or more adjoining school districts. The county superintendent shall notify the county committee for the reorganization of school districts of the existence of territory not organized into school districts and recommends that the same shall be attached to one or more adjoining school districts, the county committee shall forthwith provide for its attachment to one or more such districts. From and after the effective date of an order or resolution of the board of county commissioners prior to the effective date of this Act or of the county committee for the reorganization of school districts after the effective date of this Act attaching any territory described in this section to an adjoining school district, qualified electors residing in the attached territory shall be entitled to vote and hold office in the school district to the same extent as all other qualified electors residing therein, and such territory shall be part of the school district as fully in every respect as if it had been included in the district when organized. Nothing herein shall prevent the district from providing for the education of such children to the extent that its current budget in the judgment of the school board will permit, or shall relieve the district from any existing responsibility for the education of children attending its schools before the effective date of the order. Nothing herein shall change the effect of any election held within the school district pursuant to chapter 15-48 before the effective date of the order. This section applies to all school districts in the state including the board of education of the city of Fargo and the district under its jurisdiction for school purposes.

§ 2. **Amendment.)** Section 15-22-22 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-22-22. Notice of Hearing—Order of Attachment—Joint County Action.) The county superintendent of schools upon order of the board of county commissioners prior to the effective date of this Act or of the county committee for the reorganization of school districts after the effective date of this Act shall notify the clerk of each school district adjoining any district which is to be dissolved pursuant to section 15-22-21 and any unorganized territory recommended for attachment as therein provided that a hearing will be held and the time and the place of the hearing of the board of county commissioners or the county reorganization committee, as the case may be, for the purpose of determining to which school district or districts the dissolved or unorganized territory will be attached. Upon or after such hearing the board of county commissioners or the county committee for the reorganization of school districts, as the case may be, may

by resolution order the district dissolved and its territory attached, or the unorganized territory attached, to one or more adjoining school districts in such manner as will, in its judgment, provide the best educational opportunities for pupils of the public schools and the wisest use of public funds for the support of the public school system in such school districts and attached territory. The order shall become effective upon the adoption of the resolution, unless another effective date is provided for therein, and except as provided in section 15-22-21. If any of such adjoining districts is situated wholly or partly in a county other than that which included the district to be dissolved or the unorganized territory affected, any order attaching territory to such adjoining school district shall become effective only upon the adoption of a concurring resolution by the board of county commissioners or the county committee for the reorganization of school districts after the effective date of this Act of the other county in which it is situated,

§ 3. Effect of Amendments.) Sections 15-22-21 and 15-22-22 of the North Dakota Century Code as amended by this Act shall apply to and govern the rights and obligations of all persons affected by any order of dissolution or attachment entered in conformity with the provisions of those sections prior to such amendment and prior to the effective date of this Act, as well as any order entered on or after such effective date.

§ 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 18, 1963.

CHAPTER 146

H. B. No. 640
(Burk, Stockman)

SCHOOL DISTRICT NAME, POWERS

AN ACT

To amend and reenact section 15-27-02 of the 1961 Supplement of the North Dakota Century Code, relating to corporate powers and corporate name of a public school district.

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

§ 1. Amendment.) Section 15-27-02 of the 1961 Supplement of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-27-02. Public School Districts—Corporate Powers—Corporate Name—Name Change.) Every public school district shall be a body corporate for school purposes and the name of such school district shall be substantially as follows:

“.....Public School District No.....
of..... County, State of North Dakota.”

The school district shall possess all the powers and shall perform all the duties usual to corporations for public purposes or conferred upon it by law. Under its name it may sue and be sued, enter into contracts, and convey such real and personal property as shall come into its possession by will or otherwise. It may have a corporate seal by which its official acts may be attested. Whenever in the judgment of the school board of any school district it is deemed desirable to change the name of the school district, or whenever one-third of the electors of the district shall submit a petition requesting a change in the name of the school district, the board shall submit the proposed name change at the next school election. Upon ratification of the proposed change of such name by a majority of the ballots cast on the question, the school district shall be renamed accordingly. The clerk of the school board of the district shall notify the county auditor, the county superintendent of schools, and the superintendent of public instruction of any change in the name of the district.

Approved March 9, 1963.

CHAPTER 147

S. B. No. 42
(Redlin, Berube, Roen)
(From LRC Study)

DUTIES IN ANNEXATION PROCEEDINGS

AN ACT

To amend and reenact sections 15-27-04, 15-27-05, and 15-53-21 of the North Dakota Century Code, relating to the duties of the boards of county commissioners, the county committee for school district reorganization, and the county superintendent in the organization, alteration, or dissolution of school districts.

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

§ 1. Amendment.) Section 15-27-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-27-04. Attachment of Adjacent Territory to School District — Petition.) Territory contiguous to a public school district, whether in the same county or in another, may be attached to such school district and detached from the district of which it is a part by the county committee for the reorganization of school districts upon written application signed by two-thirds of the electors residing in the contiguous territory after hearing and subject to the limitations of sections 15-27-06 and 15-53-21.

§ 2. Amendment.) Section 15-27-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-27-05. Annexation Hearings—Notice of Hearings.) Before detaching territory from one school district or annexing territory to another school district, the county committee for the reorganization of school districts shall hold a hearing on the petition therefor. At least fourteen days prior to the time the hearing is to be held, the committee shall cause notice of such hearing to be published in the official newspaper of the county in which the school district is located, or if no newspaper is published in the county, the notice shall be published in a newspaper in an adjoining county in this state. If the adjoining district is in another county, the county committees for the reorganization of school districts of both counties affected may jointly effect the annexation if a majority of the members of each of the county committees approve the annexation. In the event that a majority of the members of each committee fail to approve the annexation, the county superintendent of the county in which the annexing district is located shall submit the petition to the state committee for school district reorganization for approval or disapproval, and in such instance approval of the petition by the state committee shall have the same effect as approval by the county committees. An appeal from the decision of the state committee may be had to the district court of the county in which the annexing district is located, in accordance with applicable provisions of chapter 28-32.

§ 3. Amendment.) Section 15-53-21 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-53-21. Voluntary Proposals for Organization or Alteration of School Districts.) Proposals for the organization of a new school district, for the consolidation of two or more districts, or for the alteration of the boundaries of established school districts, by any of the means provided for by law, must be submitted by the county committee and county superintendent to the state committee for approval before

any hearings on petitions are held by the county committee, or before final action is taken by the committee in cases where no petition is required, or before proposals are submitted to the vote of the electors, as the law may require in each case. Such proposals shall be approved by the county committee and county superintendent and approved by the state committee if in the judgment of said committees they constitute an acceptable part of a comprehensive program for the reorganization of the school districts of the county.

Approved March 18, 1963.

CHAPTER 148

H. B. No. 599

(Nygaard, Breum, Bowman, Bier)

SCHOOL BOARD MEMBERSHIP

AN ACT

To amend and reenact section 15-28-02 of the North Dakota Century Code Supplement, relating to the membership of a school board.

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

§ 1. **Amendment.)** Section 15-28-02 of the North Dakota Century Code Supplement is hereby amended and reenacted to read as follows:

15-28-02. Rural Members of School Board.) When a school district is composed of six or more sections of land having a city or incorporated village within its boundaries and when the population of the school district does not exceed two thousand persons, at least two members of the school board shall be residents upon farms outside the corporate limits of the city or village. When the assessed taxable valuation of the rural area of a school district containing a city or incorporated village is greater than the assessed taxable valuation of the urban area of the district, the majority of the members of the school board shall reside upon farms outside the corporate limits of the city or village. In every public school district composed of six or more sections of land and having within its boundaries a city or an incorporated village with a population of more than two thousand but less than fifteen thousand persons, and which has at least twenty-five families residing upon farms outside the corporate limits of the city or village but upon farmsteads located within the school district and sending children to school in such school district, at least one member of the board shall be a resident upon a farm outside the corporate limits of the city or village.

When a school district has within its boundaries four or more incorporated cities or villages, a school board member residing in a city or village having a population of two hundred or less, according to the latest federal census, shall be considered as a rural member and as residing upon a farm within the meaning of this section.

Approved March 13, 1963.

CHAPTER 149

H. B. No. 568

(Dagman, Streibel, Bloom, Wagner, Dick)

SCHOOL BOARD POWERS

AN ACT

To amend and reenact subsection 1 of section 15-29-08 of the North Dakota Century Code, relating to the powers and duties of school boards.

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

§ 1. **Amendment.**) Subsection 1 of section 15-29-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. To establish a system of public schools which shall be free to all children of legal school age residing within such district and which shall furnish school privileges equally and equitably to all pupils in the district. The board may make proper and necessary rules for the assignment and distribution of pupils to and among the schools in the district and for their transfer from one school to another. Such schools shall provide at least one hundred eighty days of classroom instruction each year provided that any day in which classes cannot be held because of acts of God, epidemic or failure of physical facilities shall be included in the one hundred eighty days provided for in this section. Any school may be discontinued when the average attendance of pupils therein shall be less than six for ten consecutive days, if proper and convenient school facilities for the pupils can be provided in some other school in the territory of the closed school until such time as the school may be reopened by the board. In determining what constitutes proper and convenient school facilities, the board shall consider the distance of each child from the nearest other school and all surrounding circum-

stances. The board may furnish transportation to the nearest school, or may pay an extra allowance over and above the schedule of payments provided for in section 15-34-04 for the transportation or may furnish the equivalent thereof in tuition or lodging at some other public school. In case of a dispute between a parent or guardian of a pupil of the school district and the board as to whether the board has furnished or arranged to furnish adequate facilities, the matter may be submitted by such parent or guardian to the board of arbitration consisting of the county superintendent of schools, one arbitrator named by the parent or guardian, and one arbitrator named by the board, and the determination of the arbitrators after hearing, shall be binding. The board shall reopen any school which has been closed for lack of attendance under this subsection for the next ensuing term upon the written demand of the parents or guardians of six or more children of compulsory school age residing within two and one-half miles of the school. The parents or guardians of at least four such children must be residents of the district. The board may reopen such school at any time upon its own motion.

Approved March 5, 1963.

CHAPTER 150

H. B. No. 749

(Anderson of Richland)

TRANSPORTATION PAYMENTS

AN ACT

To amend and reenact section 15-34-05 of the North Dakota Century Code, as amended by the 1961 Legislative Assembly, relating to transportation of nonresident students.

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

§ 1. Amendment.) Section 15-34-05 of the North Dakota Century Code, as amended by the 1961 Legislative Assembly, is hereby amended and reenacted to read as follows:

15-34-05. Vehicular Transportation, Lodging, or Tuition May Be Furnished at Option of School Board.) The school board of any school district in the state, in its discretion, may furnish to each family living more than two miles from a

school in the district which is taught the required length of time:

1. Vehicular transportation by public conveyance; or
2. The equivalent of the payments specified in section 15-34-04 in lodging or tuition at some other public school if the same is acceptable to the family.

The board shall not accord the benefits of either subsection 1 or subsection 2 of this section to any family which is receiving payments under section 15-34-04. The school board of any school district in the state may furnish transportation to nonresident student or students only upon entering into an agreement for such transportation with the district of the student's residence. All transportation payments shall be withheld on nonresident students if the school board of the district furnishing transportation to nonresident students does not enter into an agreement with the district of the student's residence.

Approved March 13, 1963.

CHAPTER 151

S. B. No. 49
(Redlin, Longmire, Roen)
(From LRC Study)

TRANSPORTATION OR MAINTENANCE OF PUPILS

AN ACT

To amend and reenact sections 15-34-09 and 15-34-09.1 of the North Dakota Century Code, relating to the authority of a school district to provide transportation or maintenance for students and to levy a tax therefor.

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

§ 1. Amendment.) Section 15-34-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

***15-34-09. Transportation or Maintenance of Pupils Permitted.)** Any school district may provide transportation from the places of residence or, where convenient or more economical, may at the discretion of the school board pay a reasonable allowance for board and lodging for pupils who reside in the district, in order that such pupils may attend school. Such transportation or allowance shall be provided in such manner and in such amounts as shall be determined by the board of the district furnishing such transportation or allowance and

shall be in addition to any other payments made to such pupils or their parents or responsible relatives under any state public welfare program.

§ 2. **Amendment.**) Section 15-34-09.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

***15-34-09.1. Levy for Transportation and Maintenance of Pupils Authorized.)** The school board of any school providing transportation or an allowance for students as provided in section 15-34-09 shall be authorized to levy up to five mills for such purposes, which levy shall not be subject to any mill levy limitations prescribed by law.

Approved March 5, 1963.

***Note:** Sections 15-34-09 and 15-34-09.1 were subsequently amended by chapter 152 of the 1963 Session Laws.

CHAPTER 152

S. B. No. 361
(Delayed Bills Committee)
(Wartner)

TRANSPORTATION OR MAINTENANCE OF PUPILS

AN ACT

To amend and reenact sections 15-34-09 and 15-34-09.1 of the North Dakota Century Code, as amended by Senate Bill Number 49 of the Thirty-eighth Legislative Assembly, relating to the authority of school districts to provide transportation or maintenance for students and to levy a tax therefor.

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

§ 1. **Amendment.**) Section 15-34-09 of the North Dakota Century Code, as amended by Senate Bill Number 49 of the Thirty-eighth Legislative Assembly, is hereby amended and reenacted to read as follows:

***15-34-09. Transportation or Maintenance of Pupils Permitted.)** Any school district may provide transportation from the places of residence or, where convenient or more economical, may at the discretion of the school board pay a reasonable allowance for board and lodging for pupils who are eligible to attend high school and reside in the district, in order that such pupils may attend high school in another school district in the county or in an adjoining county or any county agricultural and training school. Such transportation or allowance

shall be provided in such manner and in such amounts as shall be determined by the board of the district furnishing such transportation or allowance and shall be in addition to any other payments made to such pupils or their parents or responsible relatives under any state public welfare program.

§ 2. **Amendment.**) Section 15-34-09.1 of the North Dakota Century Code, as amended by Senate Bill Number 49 of the Thirty-eighth Legislative Assembly, is hereby amended and reenacted to read as follows:

***15-34-09.1. Levy for Transportation and Maintenance of Pupils Authorized.)** The school board of any school district providing transportation or an allowance for students attending high school in another district as provided in section 15-34-09 shall be authorized to levy up to five mills for such purposes, which levy shall not be subject to any mill levy limitations prescribed by law.

Approved March 21, 1963.

***Note:** Sections 15-34-09 and 15-34-09.1 were previously amended by chapter 151 of the 1963 Session Laws.

CHAPTER 153

H. B. No. 641

(Reimers, Maragos, Vendsel, Bloom)

SCHOOL TRANSPORTATION CONTRACTS

AN ACT

To amend and reenact section 15-34-12 of the North Dakota Century Code Supplement, relating to school boards of school districts furnishing vehicular transportation to any of its schools.

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

§ 1. **Amendment.**) Section 15-34-12 of the North Dakota Century Code Supplement is hereby amended and reenacted to read as follows:

15-34-12. Vehicular Transportation — Bids, Contracts, Bonds.) The school board of any school district which furnishes vehicular transportation to any of its schools, prior to the opening of school each year, shall enter into written contracts for the furnishing of such transportation, for the ensuing school year. If the vehicle furnished is privately owned, the driver of the vehicle and the school board may enter into a contract not to exceed seven years. The board shall

give at least ten days' notice of the time and place of the letting of such contracts and shall call for sealed bids therefor by posting notices thereof in at least three of the most public places in the school district. The notices shall describe the route to be covered by each contract, and shall state that the board reserves the right to reject any and all bids, that a bond will be required of each successful bidder, in the sum of five hundred dollars or such greater sum as may be set by the board, conditioned for the faithful performance of the duties prescribed by the contract, and that the bids submitted must name the person or persons who will operate the vehicle and describe the nature of the vehicle.

Approved March 15, 1963.

CHAPTER 154

H. B. No. 584
(Johnson, Haugen)

SCHOOL BUS DRIVER QUALIFICATIONS

AN ACT

To amend and reenact section 15-34-19 of the North Dakota Century Code, relating to qualifications of school bus drivers.

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

§ 1. Amendment.) Section 15-34-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-34-19. Qualifications, Character, and Age of School Bus Drivers.) The driver of a school bus shall be in good physical and mental health, able-bodied, free from communicable diseases, and shall have normal use of both hands, both feet, both eyes, both ears. It shall be the duty of school boards to designate reputable physicians to examine each driver annually. It shall be the duty of each driver to present the physician's certificate of physical fitness to the employing school board before a contract is signed. Such driver shall possess a good moral character, and shall be at least eighteen and not more than sixty-five years of age and shall be required to have a North Dakota driver's license. The term school bus as used in this section shall mean a passenger motor vehicle having an actual seating capacity of twelve or more passengers.

Approved March 5, 1963.

CHAPTER 155

S. B. No. 48
(Redlin, Berube, Roen)
(From LRC Study)

TRANSPORTATION PAYMENTS

AN ACT

To create and enact section 15-34-26.1, and to amend and reenact sections 15-34-24 and 15-34-25 of the North Dakota Century Code, relating to the authorization of a mill levy for pupil transportation to offset any decline in payments from the county equalization fund, and to the computation and method of making payments from the state and county equalization funds for pupil transportation; and to repeal subsection 5 of section 15-34-23 of the North Dakota Century Code, relating to the definition of "pupil miles."

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

§ 1. **Amendment.)** Section 15-34-24 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-34-24. Aid for Transportation.) There shall be paid from the county equalization fund to each school district providing school bus transportation in contract school buses or in district owned and operated school buses a sum equal to seven cents per mile for school buses having a capacity of up to nineteen pupils and twelve cents per mile for school buses having a capacity of twenty or more pupils. Such payments shall be made only to school districts operating school buses in accordance with the laws of this state relating to standards for school buses, and to the qualifications of school bus drivers. Certification as to the compliance with the laws of this state in regard to school buses and their drivers shall be made in such manner and in such detail as the superintendent of public instruction may require at the time an application is made for payments provided under this section.

§ 2. **Amendment.)** Section 15-34-25 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-34-25. Method of Making Payment.) On or before the fifteenth day of July, 1963, and on or before July fifteenth of each year thereafter, the clerk of each school district in this state providing school bus transportation shall certify to the county superintendent of schools the number of school buses operated on a contract basis or owned and operated by

the district, the manufacturers' rated pupil capacity of each such bus, the daily mileage each such bus traveled on a school bus route during the school year in transporting pupils to and from school, the amount of transportation payments claimed, and such other information as the superintendent of public instruction may require. On or before the first day of September in 1963 and each year thereafter, the county superintendent of schools shall certify all claims for transportation payments submitted by school districts in the county to the state superintendent of public instruction. At the time the county superintendent of schools certifies such claims to the superintendent of public instruction, he shall also give notice to any district of any disallowance that may have been made by him in the claim for transportation payments. Any district may appeal the decision of the county superintendent of schools to the superintendent of public instruction on or before the fifteenth day of September of any year in which the determination is made. The superintendent of public instruction may change or modify the determination of the county superintendent if the evidence submitted by the district warrants a modification. The judgment of the superintendent of public instruction shall be final.

§ 3.) Section 15-34-26.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

15-34-26.1. Reduction in Payments—Excess Levy for Transportation.) Using transportation payments determined to be payable during the 1962-1963 school year as a basic amount, the county superintendent of schools shall calculate the amount which will be paid to each school district under the amended payment formula as provided in this Act, during the 1963-1964 school year. If the amount of such payment to any school district is determined to be less than the amount payable during the 1962-1963 school year, the superintendent of public instruction shall reduce the amount of the payment to each such school district during the 1963-1964 school year by one-third of the amount of such difference. Payments to each such school district during the 1964-1965 school year shall be reduced by two-thirds of the difference between the amount payable during the 1962-1963 school year and the amount payable during the 1963-1964 school year under the formula provided in this Act, and payments during the 1965-1966 school year shall be the amount due such district under the amended payment formula as provided in this Act.

In addition, the county superintendent of schools shall, not later than July 1, 1963, notify the clerk of each school district which will receive decreased payments under the amended transportation formula provided in this Act of the amount of

such decreased payments. Any school district which will receive a lesser monetary amount of payments from the county equalization fund for transportation during the school years 1963-1964, 1964-1965, 1965-1966, 1966-1967, and 1967-1968 due to the amendment of the transportation formula provided in this Act, than the amount paid during the 1962-1963 school year, may levy a tax equal to the amount of such decrease in each of the calendar years 1963, 1964, 1965, 1966, and 1967. Such levy shall not be limited by the levy limitations otherwise provided by law for such district.

§ 4. Repeal.) Subsection 5 of section 15-34-23 of the North Dakota Century Code is hereby repealed.

Approved March 14, 1963.

CHAPTER 156

H. B. No. 612
(Stockman, Haugen)

SCHOOL CONSTRUCTION STANDARDS

AN ACT

To amend and reenact subsections 3 and 4 of section 15-35-02 of the North Dakota Century Code, relating to the construction of school buildings, and declaring an emergency.

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

§ 1. Amendment.) Subsections 3 and 4 of section 15-35-02 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

3. (a) Elementary Schools

In elementary school buildings they shall provide for the admission of light from the side, sides, or rear of the classrooms by one or any combination of these sources. The use of skylights to strengthen natural light sources shall be permitted. Total natural light area, including windows and skylights, if used, shall be equal to at least seven percent of the floor area.

(b) High Schools

- (1) In single story portions of high schools they shall provide for the admission of light from the side, sides, rear or ceiling of the classrooms, through one or more of these sources. Total natural light area shall be a minimum of seven

percent of the classroom floor area, except that interior class rooms shall be exempted from this provision.

- (2) In multistory portions of high schools they shall provide for the admission of light from the side, sides, rear or ceiling of the classrooms through one or more of these sources. Total natural light area shall be a minimum of seven percent of classroom floor area except that interior classrooms shall be exempted from this provision.
4. All ceilings shall average at least eight and one-half feet for elementary school classrooms and nine feet for high school classrooms. If sloping ceilings are used, the mean clear height shall not be less than the heights stated above.

§ 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 18, 1963.

CHAPTER 157

S. B. No. 34

(Holand, Baeverstad, Luick, Becker, Reichert)
(From LRC Study)

EQUALIZATION FUND PAYMENTS

AN ACT

To amend and reenact sections 15-34-26, 15-40-02, 15-40-18, 15-40-19, and 57-15-24, relating to the certification by tax commissioner in regard to the level of assessment in counties, payments from the county equalization fund to school districts, adjustment of the mill levy against taxable property for the county equalization fund, the determination by the superintendent of public instruction of the sums due each county equalization fund as a result of such adjustment, and providing for an effective date.

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

§ 1. Amendment.) Section 15-34-26 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-34-26. State Transportation Payments—Disbursement to School Districts.) The superintendent of public instruction shall determine the total amount of payments to be made

from the county equalization fund of each county including those for transportation, the proceeds of the taxable assessed valuation of each county multiplied by twenty and five-tenths mills or as specified in section 15-40-18, and the total payments to be received from the state for equalization purposes excluding state payments for transportation. In the event it is determined by the superintendent of public instruction that insufficient moneys will be available in each county equalization fund to make all payments required to be paid from the fund, including those for transportation, he shall certify to the department of accounts and purchases a list of such counties together with a statement of the amount of payments due each county equalization fund for the purpose of providing aid for the transportation of pupils. The department of accounts and purchases shall pay the sum certified by the superintendent of public instruction to each county, where it shall be credited to the county equalization fund. The payments from the state as aid for the transportation of pupils shall be made in the same manner and at the same time as other payments from the state to county equalization funds are made. Disbursements from the county equalization fund to the respective school districts entitled to payments therefrom shall be upon warrant of the county auditor at the same time and in the same manner as other payments from the county equalization fund to the respective school districts are made.

§ 2. Amendment.) Section 15-40-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-40-02. County Equalization Fund — How Constituted.) The county equalization fund shall consist of the taxes collected by virtue of the mill levy made as provided by section 57-15-24, payments from the state under the provisions of this chapter and the balance remaining from collections of the per capita school tax under the provisions of section 57-15-23 after the deductions are made as provided in section 15-39-23. The distribution of moneys in the county equalization fund shall only be made pursuant to the provisions of sections 15-40-14 and 15-40-24 of this code. If an apportionment of the county equalization fund is withheld from any district, it shall be retained in the fund and disbursed in the same manner as other moneys in the fund. Grants from the state under the provisions of this chapter shall be converted unto and become a part of the county equalization fund of each county.

§ 3. Amendment.) Section 15-40-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-40-18. Determination of Sums Due County Equalization Funds.) For purposes of this section:

1. "County average" means the countywide average percentage of market value at which taxable property in a county has been assessed after final equalization; and
2. "State average" means the statewide average percentage of market value at which all taxable property in the state has been assessed after final equalization.

At the close of each school year the county superintendent of schools of each county shall submit to the superintendent of public instruction a request for a grant-in-aid from the state for the county equalization fund. The request shall be filed on forms furnished by the superintendent of public instruction and shall state the full amount of the payments from the county equalization fund to be made to each school or school district that has complied with the provisions of law relating to such fund. Immediately following the final meeting of the state board of equalization, the state tax commissioner shall certify to the superintendent of public instruction the countywide average percentage of market value at which all taxable property in each county has been assessed after final equalization and the statewide average percentage of market value at which all taxable property in the state has been assessed after final equalization. The superintendent of public instruction shall then determine the amount of the grants-in-aid to which each county is entitled. Any county which, according to the certificate of the tax commissioner, has a county average that is equal to the state average, shall be entitled to a sum determined by subtracting from the full amount of the payments to be made in the county, the product of the taxable assessed valuation of property in the county multiplied by twenty and five-tenths mills, and the balance will be the amount of aid to which the county is entitled.

Any county which, according to the certificate of the tax commissioner, has a county average that is less than the state average, shall be entitled to a sum determined by subtracting from the full amount of the payments to be made in the county, the product of the taxable assessed valuation of property in the county after adjusting such valuation upwards to equal the taxable valuation of property that would have existed for such county had the property in such county been assessed at the state average, by twenty and five-tenths mills. The balance will be the amount of aid to which the county is entitled for such fund.

Any county which, according to the certificate of the tax commissioner, has a county average that is more than the state average, shall be entitled to a sum determined by

subtracting from the full amount of the payments to be made in the county the product of the taxable assessed valuation of the property in the county after adjusting such valuation downwards to equal the taxable valuation of property that would have existed for such county had the property in such county been assessed at the state average, by twenty and five-tenths mills. The balance will be the amount of aid to which the county is entitled for such fund.

The superintendent of public instruction shall determine the product of the taxable valuation of property in the county, after adjusting such valuation upwards or downwards to equal the taxable valuation of property that would have existed for such county had the property in such county been assessed at the state average, by twenty-one mills. The superintendent of public instruction shall certify such amount to the county auditor of each county, that has a county average that is less than or more than the state average, which shall be converted to mills and levied by the county auditor upon all taxable property in the county in lieu of the twenty-one mill levy specified in section 57-15-24.

§ 4. Amendment.) Section 15-40-19 of the North Dakota Century Code Supplement is hereby amended and reenacted to read as follows:

15-40-19. Distribution of Payments to County Equalization Funds — Duty of Department of Accounts and Purchases.) Upon receiving the certifications of the county superintendent of schools, the superintendent of public instruction, after certifying to the respective county auditors the amount that shall be levied on all taxable property in accordance with section 15-40-18, shall certify to the department of accounts and purchases a list of all county equalization funds in the state together with a statement of the payments due such funds. The department of accounts and purchases shall pay to the county equalization fund from the general fund, within the limits of legislative appropriation, upon warrants prepared and issued by the department and signed by the state auditor, fifty percent of the sum found to be due under the provisions of this chapter on December first and the balance on March first.

§ 5. Amendment.) Section 57-15-24 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-24. County Mill Levy for Schools.) The county auditor, at the time the annual levy of taxes is made, shall levy a tax of twenty-one mills on the dollar on all taxable property in the county to be placed in the county equalization fund for apportionment as provided by law except that the

county auditor of any county which, according to the certificate of the tax commissioner, has on a countywide average assessed its taxable property at a percentage of market value that is less than the statewide average percentage of market value at which all taxable property has been assessed shall convert the amount certified to him by the superintendent of public instruction to mills and make such levy upon all taxable property in the county in lieu of such twenty-one mill levy specified by this section. The levy provided for in this section shall be over and above any tax levy limitations provided by law.

§ 6. Effective Date.) The provisions of this Act shall become effective July 1, 1964.

Approved March 19, 1963.

CHAPTER 158

H. B. No. 685
(Connolly, Christensen (McLean))

EDUCATION OF INDIAN AND MIGRATORY CHILDREN

AN ACT

To amend and reenact subsection 3 of section 15-29-08 and section 15-40-14 of the 1961 Supplement to the North Dakota Century Code and section 15-40-24 of the North Dakota Century Code, relating to the contracting by school districts for educational services with the federal Indian schools and educating children of agricultural migratory workers.

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

§ 1. Amendment.) Subsection 3 of section 15-29-08 of the 1961 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-29-08. General Powers and Duties of School Board.) The powers and duties of the school board of a public school district shall be as follows:

3. To send pupils into another school district when, because of shorter distances and other conveniences, it is to the best interests of the school district to do so, and in such instances the board may pay the tuition of such pupils to the district to which they are sent. The school board may make arrangements for the education of pupils in a federal Indian school and contract with the superintendent of the Indian agency for the payment of

tuition for these pupils. The board may arrange, and when petitioned to do so by a majority of electors of the district shall arrange, with the school boards of other districts to send to such other districts pupils who can be taught conveniently therein, and for the payment of their tuition and for furnishing and paying for their transportation to and from the schools in such other districts. Such other districts shall receive pupils only when the board of the sending district and the board or boards of the receiving district or districts have entered into an agreement governing the attendance of such pupils as may be enrolled. The school district in which a child resides at the time any court order shall have been issued requiring such child to stay for any prescribed period at a home maintained by any nonprofit corporation, shall be construed to be the residence district of such child for purposes of applying this subsection or section 15-40-17 relating to tuition payments, whenever such child shall attend any public school. Such residence district shall be liable for tuition in the amount provided in such sections upon claim by the district in which such child is attending school.

§ 2. Amendment.) Section 15-40-14 of the 1961 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-40-14. Payments from County Equalization Fund—Amount—Student Attending School in Foreign State.) There shall be paid from the county equalization fund to all school districts operating high schools, to school districts contracting to educate high school pupils in a federal Indian school, all county agricultural and training schools, the state school for the blind, the state school for the deaf and state training school, that amount of money resulting from multiplying the factor 1.32 times one hundred fifty dollars from each high school pupil in average daily membership in such schools each year. However no payment shall be made for Indian pupils in districts in which the school facilities are being provided, maintained and staffed wholly or in part by the federal government for the education of the Indian pupils. Such payments shall not be made unless four or more units of standard high school work approved by the superintendent of public instruction are offered during the current year, only certificated teachers have been employed, teachers have been paid not less than the minimum legal salaries, and the other standards prescribed by this chapter have been met. Districts that did not maintain high schools during the year of 1954-1955 shall not be eligible for payments unless they have a

minimum enrollment of twenty-five pupils if four years of high school work are offered, a minimum enrollment of twenty pupils if three years of high school work are offered, a minimum enrollment of fifteen pupils if two years of high school work are offered, and a minimum enrollment of ten pupils if one year of high school work is offered. A student who lives within twenty miles of another state or in a county bordering on another state and in a school district which has no high school, or which does have a high school and the attendance has been authorized in accordance with the provisions of section 15-40-17, with the approval of the county superintendent of schools, may attend a four year public high school in an adjoining state and payments from the county equalization fund shall be paid to the district in which the high school which he attends is located in the amount provided for in this section. For purposes of this chapter "average daily membership" shall mean the total days all students in a given school are in attendance, including legal school holidays and days set aside for a North Dakota education association convention, plus the total days all students are absent, divided by one hundred eighty days. School districts educating children of agricultural migratory workers during the months of June, July, and August shall not be restricted to payments for a one hundred eighty day school term.

§ 3. Amendment.) Section 15-40-24 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-40-24. Elementary Per Pupil Payments — Amount.) There shall be paid out of the county equalization fund, to the school districts of the county operating elementary schools, to school districts contracting to educate elementary pupils in a federal Indian school, and to the state school for the blind, the state school for the deaf and the state training school, employing teachers holding valid certificates or permits, payments based on the average daily membership as provided for in section 15-40-14, the following amounts:

1. In one room rural schools there shall be paid one and one-half times one hundred fifty dollars, or a total of two hundred twenty-five dollars for each of the first sixteen pupils in average daily membership and one hundred fifty dollars for each additional pupil in average daily membership except that no payment shall be made for more than twenty pupils in average daily membership; and
2. In elementary schools having under one hundred pupils in average daily membership there shall be paid one and one-quarter times one hundred fifty dollars, or a total

of one hundred eighty-seven and one-half dollars for each of the first twenty pupils in average daily membership in each classroom or for each teacher and one hundred fifty dollars for each additional pupil in average daily membership in each classroom or for each teacher except that no payment shall be made for more than twenty-five pupils in average daily membership in each classroom or for each teacher; and

3. In elementary schools having one hundred or more pupils in average membership there shall be paid one hundred fifty dollars for each of the first thirty pupils in average daily membership in each classroom or for each teacher except that no payment shall be made for more than thirty pupils in average membership in each classroom or for each teacher.

Payment shall not be made for Indian pupils in districts in which the school facilities are being provided, maintained and staffed wholly or in part by the federal government for the education of Indian pupils. It is further provided that for the school year 1959-1960, districts with a one room rural school or schools closed subsequent to July 1, 1949, shall receive payments as follows:

- a. If the district is composed of eighteen sections of land or less the sum of eight hundred fifty dollars for ten pupils or less in a school and seventy-five dollars for each pupil in excess of ten in a school.
- b. If the district is composed of more than eighteen sections of land the sum of twelve hundred fifty dollars for ten pupils or less in a school and seventy-five dollars for each pupil in excess of ten in a school;

providing the school board has made a written agreement for the attendance of the pupils in another public school and vehicular transportation is furnished. Districts receiving payments where less than four pupils are enrolled shall receive a proportional amount of the payments as the total enrollment bears to four.

Approved March 18, 1963.

CHAPTER 159

H. B. No. 856
(Dagman, Fossum)

TEACHERS' INSURANCE AND RETIREMENT ASSESSMENTS

AN ACT

To amend and reenact sections 15-39-14 and 15-39-17 of the North Dakota Century Code, with regard to lowering the limitations on the amount of contributions made by political subdivisions to the state teachers' insurance and retirement fund.

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

§ 1. **Amendment.)** Section 15-39-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-39-14. Amount of Assessments.) Every teacher who is a member of the fund shall be assessed upon his salary as teacher as follows:

1. Four percent per annum, but not more than one hundred twenty dollars per year, for each of his first eight years of service as a teacher; and
2. Five percent per annum, but not more than one hundred eighty dollars per year, for each of the second eight years of service as a teacher; and
3. Six percent per annum, but not more than two hundred dollars per year, for each successive year of service as a teacher thereafter.

The total amount of assessments paid, however, shall not be less than the full amount of annuity to which the teacher shall be entitled under the provisions of this chapter for the first year of retirement. When a political subdivision or institution covered by the benefits of the teachers' retirement fund provides sick leave and employs substitute teachers at additional cost to said subdivisions or institutions, they shall in no event be required to pay in excess of fifty dollars per year as matching fund for any one teaching position, where the teacher has eight or less years of service as a teacher or in excess of one hundred twenty dollars per year as matching fund for any one teaching position, where the teacher has more than eight years of service as a teacher.

§ 2. **Amendment.)** Section 15-39-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-39-17. Assessments and Contributions and Statements Thereof To Be Forwarded to County Treasurer.) The disburs-

ing officers of each school district, and of each county, between June twentieth and June thirtieth of each year, shall forward to the treasurer of the county the assessments deducted and retained as provided in this chapter, and in addition thereto, contributions to the fund in an amount equal to such assessments shall be set aside from funds available for the payment of the salary of the teachers, except that no contribution by any school district, as determined by a teacher's contribution, shall exceed four percent of the teacher's salary or fifty dollars per year as matching fund for any one teaching position, where the teacher has eight or less years of service as a teacher or in excess of one hundred twenty dollars per year as matching fund for any one teaching position, where the teacher has more than eight years of service as a teacher. Such contributions shall be forwarded to the treasurer of the county. Provided, however, that if a teacher fails to complete the term, the district shall not be required to match said teacher's salary in entirety but shall pay the proportional part of the maximum assessments required for the time that teacher taught, unless such requirement increases the amount of assessments to be paid in which event the assessments shall be that computed on the actual salary the teacher received. Said disbursing officer shall forward the contributions with a statement, verified by the clerk of the school district or the county auditor, as the case may be, and containing the following information:

1. The name and monthly salary of each teacher;
2. The number of months of school taught during the school year for which the statement is made by each teacher in the public schools of the district or school organization over which the governing board has jurisdiction;
3. The number of months during which schools were operated in each district or school organization in the year covered by the report;
4. The total salary of each teacher;
5. The total amount withheld from the salary of each teacher and contributed by the school district or county in accordance with the provisions of this chapter;
6. The total amount withheld from the salaries of all the teachers in the district or school organization for the school year next preceding; and
7. The total number of years each teacher listed in the report has taught in the public schools of the state.

Approved March 13, 1963.

CHAPTER 160

H. B. No. 613
(Breum, Johnson)

TEACHERS' INSURANCE AND RETIREMENT ASSESSMENTS

AN ACT

To amend and reenact section 15-39-15 of the North Dakota Century Code, relating to the payment of teachers' insurance and retirement assessments.

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

§ 1. **Amendment.**) Section 15-39-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-39-15. Teacher Coming from School Not Included in Provisions of Chapter To Pay Back Assessments.) Any teacher who comes from a school or educational institution supported by public taxation in another state of this nation and becomes a teacher in a public school or state institution within North Dakota may elect to have not to exceed seven years out-of-state teaching accredited in North Dakota provided he declares his request to the board of trustees of this fund for such out-of-state credit within the first year after he begins teaching in North Dakota or within one year of the time when such out-of-state teaching combined with teaching within North Dakota shall aggregate twenty-five years, provided that out-of-state teaching time shall not exceed seven years. Every such teacher shall be advised of the provisions of this section by the school board in writing at the time of employment, and a copy of such notice with written acknowledgment thereof, shall be filed with the teachers' insurance and retirement fund board. Before receiving any retirement annuity, he shall pay assessments to the fund for the number of years out-of-state teaching he elects based upon his first annual salary in a public school or state institution in this state, or, if he has taught in North Dakota previously, upon his first salary in the state after his resumption of teaching in this state. After July 1, 1949, assessment payments on out-of-state teaching shall be doubled. The rate of interest shall be six percent, the same interest as required of North Dakota teachers having delinquent assessments within the state.

Approved March 18, 1963.

CHAPTER 161

S. B. No. 87

(Lips, Kautzmann, Mahoney, Robinson)

INVESTMENT OF TEACHERS' INSURANCE AND
RETIREMENT FUNDS

AN ACT

To amend and reenact section 15-39-26 of the North Dakota Century Code, relating to investment of moneys in the teachers' insurance and retirement fund.

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

§ 1. **Amendment.**) Section 15-39-26 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

***15-39-26. Investment of Moneys in Fund.)** The board, when authorized to do so by a resolution duly adopted by the industrial commission of the state of North Dakota, may invest moneys in the fund in bonds and mortgages or other securities the payment of which is guaranteed by the United States of America, bonds of the state of North Dakota or any other state, refunding bonds provided for by chapter 40-36 in certificates of indebtedness of the state of North Dakota, revenue producing building bonds of North Dakota higher education institutions or junior colleges issued under the provisions of chapter 15-55, or in bonds, certificates of indebtedness, or warrants of any political subdivision of the state of North Dakota which constitutes the general or contingent general obligations of the issuing tax authority, and purchase such loans and purchase such mortgage investments dated after the effective date of this section as are insured by or guaranteed in any manner wholly or in part, or other investments that are fully guaranteed by the United States or any instrumentality thereof, or by this state or instrumentality thereof. Before any investment is made in any securities, however, the investment shall be approved by the board and the securities shall be approved by the attorney general as to the form and legality thereof. The state treasurer shall be the custodian of all such securities, and the board shall deliver any securities so purchased to the state treasurer as such custodian. This section shall constitute a continuing appropriation out of the fund of all moneys that may be required for the making of the investments authorized by this section. Any member of

***Note:** Section 15-39-26 was also amended by section 2, chapter 205, 1963 S.L.

the board and any officer thereof who shall participate in the investment of any moneys in the fund without first having obtained the authorization of the industrial commission as provided in this section shall be guilty of a misdemeanor.

Approved March 4, 1963.

CHAPTER 162

S. B. No. 331

(Brooks, Baker, Lips, Becker, Foss, Redlin, Thompson)

TEACHERS' INSURANCE AND RETIREMENT ANNUITIES

AN ACT

To provide for an increase in teachers' insurance and retirement annuities to retired teachers meeting certain requirements.

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

§ 1. Retirement Annuities Increased.) Notwithstanding any other provision of law to the contrary, the amount of annuity presently payable to any teacher who completed twenty-five years of teaching service and retired at the age of fifty-five years or over prior to July 1, 1947, shall be increased by an amount equal to twenty-five percent of the amount of the annuity presently payable, effective commencing with the effective date of this Act. The board of trustees of the teachers' insurance and retirement fund is hereby authorized and directed to make the increased payments required by this Act.

Approved March 16, 1963.

CHAPTER 163

S. B. No. 85

(Lips)

WITHDRAWAL OF TEACHERS' INSURANCE AND
RETIREMENT FUND MEMBER

AN ACT

To amend and reenact section 15-39-40 of the North Dakota Century Code, relating to the withdrawal and reinstatement of members of the teachers' insurance and retirement fund.

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

§ 1. **Amendment.**) Section 15-39-40 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-39-40. Withdrawal of Member from Fund—Death of Member—Refund.) Any teacher who shall cease to be a teacher in the public schools or state institutions of this state without receiving any benefit or annuity from the fund upon such retirement, upon making written application therefor to the board shall be entitled to the return of one-half of the amount of assessments which he has paid into the fund on salaries earned prior to July 1, 1947, and the return of the full amount of assessments which he has paid into the fund on salaries earned after July 1, 1947 without interest. If such teacher, after having withdrawn from the fund as provided in this section, shall become a teacher again in the public schools or state institutions of this state, he, during either the first year he begins teaching after such withdrawal or within one year of the time when such prior North Dakota teaching combined with North Dakota teaching after such withdrawal shall aggregate twenty-five years, shall elect either to return to the fund the amount which was returned to him, with simple interest at the rate of four percent per annum, from the time of such withdrawal, or to commence participation in the fund as though teaching for the first time. If the teacher who is or was a member of the fund shall die before he has retired as provided in this chapter his designated beneficiary, or if no beneficiary has been designated, his executor or administrator, or if no executor or administrator has been appointed then the surviving spouse or heirs at law shall be entitled to receive from the fund the total amount without interest to which the beneficiary or heirs may be entitled.

Approved March 16, 1963.

CHAPTER 164

S. B. No. 288
(Redlin, Roen)

TUITION PAYMENTS FOR NONRESIDENT STUDENTS

AN ACT

To amend and reenact section 15-40-17 of the North Dakota Century Code Supplement, relating to the payment of tuition for a high school student attending school in a district other than his district of residence.

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

§ 1. **Amendment.)** Section 15-40-17 of the North Dakota Century Code Supplement is hereby amended and reenacted to read as follows:

***15-40-17. High School Payments Are Exclusive—Exception.)** No school district shall charge or collect from any nonresident high school student, his parents or guardian, or the district of his residence, any registration, textbook, or laboratory fee, or any other fee or charge which is not charged to or for all resident high school students. However, a high school district shall charge tuition for nonresident high school students. The whole amount of such tuition, except as herein-after provided, shall be paid by the district from which the pupil is admitted and shall equal the average cost of high school education per child in the county less payments from county equalization funds and from the state under this chapter. Such costs shall include expenditures from the general and sinking and interest funds, and receipts from the building fund. Credit on tuition charges shall be given by the admitting district to the extent of school taxes paid to the admitting district by the parent or guardian of the admitted student. In the event any district not providing high school education should fail or refuse to pay the tuition charges, the admitting district shall notify the county superintendent of schools of the county of residence of the student and the state superintendent of public instruction of such fact, and upon verification by the county superintendent of schools that such tuition payments are due the admitting district, all county equalization fund payments and payments from the state under this chapter to the district of residence of the student shall be withheld until the tuition due the admitting district has been fully paid.

***Note:** Section 15-40-17 was also amended by section 10, chapter 200, 1963 S.L.

The parent or guardian of any student who is a resident of a district providing a high school education may apply to the school board of the school district of residence of the student for approval of the payment of tuition charges to another school district for attendance of the student at the high school in such other school district. If the school board of the district of residence shall approve such application, it shall pay the tuition charges in accordance with the application as approved. In the event such application shall be disapproved, the parent or guardian of the child may appeal the question to the county superintendent of schools, and a committee consisting of the county judge, state's attorney, and the county superintendent of schools shall within fifteen days consult with the school boards of the districts concerned and with the parent or guardian of the student concerned and render a decision in regard to the tuition charges. If the committee shall find the attendance of the student in question is necessitated by shorter distance or other reasons of convenience, including previous attendance in another high school, it may approve the payment of such tuition charges. The school district of residence of the student shall thereafter be required to pay such tuition charges, and upon notification by the admitting district of the failure of the district of residence to pay such tuition charges, all county equalization payments and payments from the state under this chapter to the district of residence shall be withheld in the same manner as provided in this section in the case of a district not providing a high school education. If the committee shall find that the attendance of the student at a high school outside the district is not necessitated by shorter distance or other reasons of convenience, the district of residence shall not be required to pay such tuition charges. The decision of the committee may be appealed to the state board of public school education, and the decision of such board shall be binding upon all parties. The school board of any school district approving the payment of high school tuition charges or required to make such payments under the provisions of this section may levy an amount sufficient to pay tuition charges which levy shall not be subject to any mill levy limitations prescribed by law. This chapter, however, shall not affect the right of a school district to charge and collect such tuition as may be fixed by agreement from students who are not residents of this state.

Approved March 19, 1963.

CHAPTER 165

H. B. No. 565

(Dagman, Streibel, Bloom, Wagner, Dick)

HIGH SCHOOL COURSE REQUIREMENTS

AN ACT

To amend and reenact section 15-41-06 of the North Dakota Century Code, relating to requirements for high school attendance.

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

§ 1. **Amendment.)** Section 15-41-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-41-06. High School Courses — Requirements — Credits.) Four units of high school work shall be considered the minimum number of any year from the ninth grade to the twelfth grade, inclusive. All unit courses shall be taught a minimum of forty minutes a day for at least one hundred eighty days, subject to the provisions of subsection 1 of section 15-29-08, except that all natural science courses shall exceed forty minutes to such an extent as may be determined by the superintendent of public instruction. In all high schools and in all schools maintaining any of the grades from the ninth to the twelfth, inclusive, and doing high school work, it shall be made possible for each grade to complete four units of work each year. The work which is done by pupils in any school which does not conform to the requirements contained in this section shall not be accredited by the superintendent of public instruction through state high school examinations or otherwise.

Approved March 5, 1963.

CHAPTER 166

H. B. No. 592
(Bowman, Bloom)

SCHOOL CENSUS

AN ACT

To amend and reenact section 15-47-13 of the 1961 Supplement to the North Dakota Century Code, relating to school census and reporting, and declaring an emergency.

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

§ 1. Amendment.) Section 15-47-13 of the 1961 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-47-13. School Census—Report.) The school board of each public school district shall cause an enumeration to be made between the first and thirtieth days of June of each odd numbered year, of all persons under twenty-one years of age, as of such thirtieth day of June, having their legal residence in the district. The census also shall include the following information:

1. The names and ages of such persons and the names of parents or guardians having the care and custody of each;
2. The names and ages of all deaf and dumb, blind, and feeble-minded persons between the ages of five years and twenty-five years residing in the district, including all such persons who are too deaf or feeble-minded to acquire an education in the common schools;
3. The names and ages of all crippled persons of any age residing in the district; and
4. The names and post office addresses of the parents or guardians of all of the persons mentioned in subsections 2 and 3 of this section.

The enumeration shall be made upon and in accordance with forms furnished by the county superintendent of schools, and shall be approved by the school board and returned to the county superintendent prior to the fifteenth day of July in the year in which it is made, and immediately upon receipt of such report the county superintendent of schools shall furnish a copy of the enumeration of deaf and dumb persons to the superintendent of the school for the deaf, a copy of the enumeration of blind persons to the superintendent of

the school for the blind, and a copy of the enumeration of feeble-minded persons to the superintendent of the institution for the feeble-minded.

§ 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 5, 1963.

CHAPTER 167

H. B. No. 566

(Dagman, Streibel, Bloom, Burvee, Wagner, Dick)

N.D.E.A. MEETINGS

AN ACT

To amend and reenact section 15-47-14 of the North Dakota Century Code, relating to attendance at education association meetings.

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

§ 1. **Amendment.)** Section 15-47-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-47-14. Education Association Meetings — Attendance by Superintendents, Principals, and Teachers.) The school board of any school district shall allow the superintendent, principal, and teachers of the schools, without loss of salary, to attend any meeting of the North Dakota education association and other educational associations held within the state while the schools of the district are in session. Be it further provided that the period during which teachers are in attendance at a North Dakota education association meeting not to exceed two days shall be included as days of classroom instruction for purposes of sections 15-47-33, 15-41-06, and subsection 1 of 15-29-08.

Approved March 5, 1963.

CHAPTER 168

H. B. No. 688

(Olienyk, Elkin, Vogel, Olsen, Bloom, Glaspey)

JOINT SCHOOL OPERATIONS

AN ACT

To amend and reenact section 15-47-32 of the North Dakota Century Code, relating to joint cooperation between school districts.

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

§ 1. **Amendment.**) Section 15-47-32 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-47-32. Contracts of School Districts for Joint Educational Endeavors.) In addition to its general powers to make contracts, any school district may contract with any other school district for the joint use or employment of qualified driver education instructors, driver training cars, or equipment to be used in establishing complete driver training courses in the respective school districts or may contract with any other school district for the use of joint instructors for any other courses of study.

Approved March 14, 1963.

CHAPTER 169

H. B. No. 567

(Dagman, Streibel, Bloom, Wagner, Dick)

LENGTH OF SCHOOL TERM

AN ACT

To amend and reenact section 15-47-33 of the North Dakota Century Code, relating to length of elementary and secondary school year term.

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

§ 1. **Amendment.**) Section 15-47-33 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-47-33. Length of Elementary and Secondary School Year Term.) All elementary and secondary schools in this state

shall provide at least one hundred eighty days of classroom instruction during each school term, subject to the provisions of subsection 1 of section 15-29-08.

Approved March 5, 1963.

CHAPTER 170

S. B. No. 47
(Redlin, Berube, Roen)
(From LRC Study)

COUNTY COMMITTEE MEMBERSHIP

AN ACT

To create and enact section 15-53-06.1 and to amend and reenact section 15-53-05 of the North Dakota Century Code, relating to the legal advisor for and the membership of the county committee for school district reorganization.

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

§ 1. **Amendment.)** Section 15-53-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-53-05. County Committee—Size, Compensation, Vacancies, Term.) In each county in this state there shall be a county committee having the same number of members as there are county commissioner districts in the county. One member of such county committee shall be chosen from among the residents domiciled within each commissioner district of the county. The county committee that has been duly selected and is serving at the time that this Act takes effect shall continue to serve in like capacity unless such committee seeks and secures from the state committee a discharge showing that the duties imposed upon it by this chapter have been fully performed, or, in case a county committee shall fail or refuse to submit plans, records, reports and other data as provided for in this chapter, until a new committee is appointed by the state committee. Each member shall receive his actual and necessary expenses incurred by him in attending scheduled meetings and in the performance of his official duties. The term of each county committee member shall be three years, staggered so that the term of one committee member shall expire each year. Vacancies in any county committee shall be filled by appointment by the county superintendent of schools with the approval of the board of county commissioners. In the event a committee member

shall fail, refuse, or be unable to perform his duties as a member of such committee the county superintendent of schools shall, upon petition of a majority of the school boards having territory in whole or in part within the district which such committee member was appointed to represent, shall declare the position of such member upon the committee to be vacant, and shall immediately appoint a new member to the committee from that district.

§ 2.) Section 15-53-06.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

15-53-06.1. State's Attorney to Represent Committee.) The state's attorney of any county within which a school district is located in whole or in part shall upon request of the county committee for school district reorganization act as legal advisor of and render opinions in writing to the committee or its officers. The state's attorney shall also defend the committee or any of its officers in any legal proceedings arising out of the conduct of the business of the board. In the event that the defense in such proceedings would result in a conflict with the duties of such state's attorney in regard to other public officials or under any law, the board of county commissioners shall employ a special counsel to represent the committee or defend against such proceedings. Compensation of such special counsel, in such amount as may be agreed to by the county commissioners, shall be paid out of the county general fund.

Approved March 19, 1963.

CHAPTER 171

S. B. No. 263
(Sorlie)

REORGANIZATION HEARINGS

AN ACT

To amend and reenact section 15-53-09 of the North Dakota Century Code, as amended by the 1961 Legislative Assembly, relating to the publishing of notices for public hearings on school district reorganization, and declaring an emergency.

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

§ 1. **Amendment.)** Section 15-53-09 of the North Dakota Century Code, as amended by the 1961 Legislative Assembly, is hereby amended and reenacted to read as follows:

15-53-09. Public Hearing on Proposals for Reorganization—Hearing Testimony for Adjusting.) The county committee

shall hold a public hearing on the advisability of any proposal by such committee for the reorganization of school districts which involves the formation of a new district or the transfer from one established district to another of any territory in which children of school age reside. Notice of such hearings as are held under the provisions of this section shall be given by publishing a notice in the official county newspaper at least fourteen days prior to the date of such hearing. If the county committee fails to call such hearing and to give the required public notice, a petition signed by twenty-five percent of the electors in the area proposed to be included in the new school district when presented to the committee shall make it mandatory within ten days to call such hearing with the date of the hearing to be not later than twenty days after the date of publication of the notice and to publish such notice. Such committee shall also hear at such time as may be fixed by it, testimony offered by any person or school district interested in any proposal of the county committee to form a new district or to transfer territory from one school district to another or to attach to an established district or districts all or any part of another district subject to disorganization for any of the reasons now specified by law, said testimony to be heard for the purpose of finding and determining the value and amount of all school property of whatever nature involved in the proposed action, the nature and amount and value of all bonded, warrant and other indebtedness of each school district affected by the proposed action, including all legal uncompleted obligations then existing and in so doing to consider the amount of such outstanding indebtedness incurred for current expenses, the amount incurred for permanent improvements and the location of such improvements and to make an equitable adjustment of all property, debts, and liabilities among the districts involved; and to keep a record of all hearings on the reorganization of school districts and of all findings and terms of adjustment of property, debts and liabilities among the districts involved, and to submit the same to the state committee at the time of submitting a plan for the reorganization of school districts as provided in section 15-53-10. A subcommittee composed of not less than three members of a county committee, or three members of the county committee of each county concerned in case territory in two or more counties is involved, may hold any hearing that the county committee is required to hold.

§ 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 18, 1963.

CHAPTER 172

S. B. No. 262

(Sorlie)

MULTI-COUNTY REORGANIZATION PLANS

AN ACT

To amend and reenact section 15-53-11 of the North Dakota Century Code, relating to approval by the state committee for school district reorganization of plans involving territory in more than one county.

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

§ 1. **Amendment.)** Section 15-53-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-53-11. Plan Involving Territory in More Than One County.) A plan for the reorganization of school districts involving territory lying in two or more counties shall be prepared by joint action of a special committee composed of not less than three members of the county committee of each county involved, which plan for purposes of submission to the state committee shall be incorporated into the comprehensive plan of the county which has the largest number of pupils residing in the proposed joint district. In the event that a majority of the members of each committee fail to approve the reorganization plan, or the members of one or more of the committees fail or refuse to meet with the committee or committees from other counties, the county superintendent of the county in which the largest number of pupils reside shall submit the reorganization plan to the state committee for school district reorganization for approval or disapproval, and in such instance approval of the reorganization plan by the state committee shall have the same effect as approval by the county committees.

Approved March 18, 1963.

CHAPTER 173

S. B. No. 46
(Redlin, Berube, Roen)
(From LRC Study)

SCHOOL DISTRICT REORGANIZATION STANDARDS

AN ACT

To create and enact subsection 5 of section 15-53-13 of the North Dakota Century Code, relating to standards for school district reorganization, and promulgation of rules.

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

§ 1.) Subsection 5 of section 15-53-13 of the North Dakota Century Code is hereby created and enacted to read as follows:

5. Establish standards by the promulgation of rules and regulations to govern the county and state committees for school district reorganization in the development and approval of school district reorganization plans or annexation proceedings. Such standards shall require any school district to be formed or reorganized under any reorganization plan or annexation proceedings providing for the operation of a high school, to have sufficient tax base and fiscal capacity to clearly permit such reorganized district to offer the minimum curriculum prescribed by section 15-41-24 and taught by teachers possessing the qualifications required by section 15-41-25. Exceptions to such standards shall be allowed by the county or state committees only in extreme cases where because of sparsity of population or geographical barriers it is absolutely impossible to obtain compliance with them. No reorganization plan or annexation proceedings shall be approved by the county or state committees unless it shall have logical boundaries following a uniform pattern without undue irregularities.

Approved March 18, 1963.

CHAPTER 174

H. B. No. 600

(Nygaard, Breum, Bowman, Bier)

REORGANIZATION OF REORGANIZED DISTRICTS

AN ACT

To create and enact section 15-53-14.1 of the North Dakota Century Code, relating to an election for the purpose of reorganizing by consolidation of two or more previously reorganized school districts, and declaring an emergency.

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

§ 1.) Section 15-53-14.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

15-53-14.1. Elections for Consolidating or Reorganizing Two or More Reorganized School Districts.) Notwithstanding the provisions of section 15-53-14, whenever reorganization proceedings are had for the purpose of consolidating or otherwise affecting two or more school districts previously reorganized under the provisions of chapter 15-53, each of such reorganized school districts shall vote as a separate unit and such reorganization proceedings shall be adopted only when approved by all voting units. However, when the rural area has a higher assessed valuation than the urban area the residents of each area shall vote separately.

§ 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 18, 1963.

CHAPTER 175

S. B. No. 41
(Redlin, Berube, Roen)
(From LRC Study)

CHANGES IN REORGANIZATION PLAN

AN ACT

To create and enact section 15-53-33 and to amend and reenact section 15-53-32 of the North Dakota Century Code, relating to the powers of a school board and changes in the reorganization plan of a reorganized school district.

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

§ 1. **Amendment.**) Section 15-53-32 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-53-32. Changes in Reorganization Plan.) At any time after the reorganization plan has become effective any provision of the reorganization plan heretofore or hereafter adopted, including those affecting the adjustment of assets and liabilities but excepting those provisions defining the boundaries of the district, may be changed by a majority vote of the electorate without approval of the state or county committees. The school board in the reorganized district may, upon its own motion, or shall upon the filing with it of a petition containing a number of signatures equal to at least one-third of the total number of votes cast at the most recent school district election, submit the question of authorizing the change at the next regular or special election. The new election shall follow the election procedure provided in section 15-53-14 and shall involve the same geographic areas as were concerned with the original reorganization election. Electors within any territory which has been annexed to the reorganized district shall vote with either an incorporated area or rural area depending on the status of the annexed area at the time of its annexation and as defined by section 15-53-14. If a majority of all votes cast by the electors residing in each of said geographic areas are in favor of the proposed change then the proposed change shall be effected.

§ 2.) Section 15-53-33 of the North Dakota Century Code is hereby created and enacted to read as follows:

15-53-33. Powers of School Board in Reorganized District.) After five years from the effective date of the reorganization plan, the school board of a reorganized district shall exercise

the powers granted to a school board by section 15-29-08 or any other provision of law regardless of limitations contained in the reorganization plan. The provisions of this section shall not be construed as authorizing the school board of a reorganized district to exercise any powers prohibited or limited by sections 15-53-15, 15-53-19, 15-53-27, 15-53-30, 15-53-32.

Approved March 18, 1963.

CHAPTER 176

S. B. No. 121

(Luick, Sorlie, Reichert, Becker, Miller, Sinner)

REVENUE-PRODUCING BUILDING BONDS

AN ACT

To amend and reenact sections 15-55-02 and 15-55-10 of the North Dakota Century Code, relating to constructing, operating, and financing revenue-producing buildings at higher educational institutions.

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

§ 1. **Amendment.)** Section 15-55-02 of the North Dakota Century Code Supplement is hereby amended and reenacted to read as follows:

15-55-02. Board May Borrow Money and Issue Bonds—Conditions—Bonds Tax Free.) For the purpose of paying all or part of the cost of construction, equipment and furnishing of any such buildings or any addition to existing buildings, or in order to refund any outstanding bonds issued for such purpose, the state board of higher education may borrow money on the credit of the income and revenue to be derived from the operation of the said building or buildings, and, in anticipation of such collections of such income and revenues, may issue negotiable bonds in such an amount as, in the opinion of said board, may be necessary for such purposes, all within the limits of the authority granted by the legislative assembly in each instance, and may provide for the payment of such bonds and the rights of the holders thereof as provided in this chapter. Such bonds shall be payable serially, and may be issued in one or more series, may bear such date or dates, may mature at such time or times not exceeding forty years from their date, may be in such denomination or denominations, may be in such form, either coupon or registered, may carry such registration and conversion privileges, may be executed

in such manner, may be payable in such medium of payment at such place or places, may be subject to such terms of redemption with or without premium, and may bear such rate or rates of interest as may be provided by resolution or resolutions to be adopted by the state board of higher education. Such bonds may be sold in such manner and at such price or prices not less than par plus accrued interest to date of delivery, as may be considered by the board to be advisable, but interest cost to maturity for any bonds issued hereunder shall not exceed five percent per annum, computed on the basis of average maturities according to standard tables of bond values. Such bonds shall have all of the qualities and incidents of negotiable paper, and shall not be subject to taxation by the state of North Dakota, or by any county, municipality, or political subdivision therein. The board, in its discretion may authorize one issue of bonds hereunder for the construction, furnishing and equipment of more than one building and may make the bonds payable from the combined revenues of all buildings acquired in whole or in part with the proceeds thereof, and where bonds are so issued the words "the building", as herein used, shall be construed to refer to all the buildings so acquired.

§ 2. **Amendment.**) Section 15-55-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-55-10. Limitation on Buildings and Issuance of Bonds.)

No building or buildings shall be erected, and no bonds shall be issued for the payment of the cost of any building or buildings under the terms of this chapter, save and except for such specified buildings as may be from time to time designated and authorized by legislative Act, nor shall any such building or buildings be erected at a cost exceeding the amount fixed by the legislature in such Act as the maximum to be expended for each such building. Refunding bonds may be issued by the state board of higher education under the provisions of this chapter without legislative Act to refund, at or prior to the maturity of or pursuant to any privilege of prepayment reserved in or granted with respect to, any bonds issued to pay the cost of buildings designated and authorized by legislative Act.

Approved March 16, 1963.

CHAPTER 177

S. B. No. 110

(Ringsak, Mutch, Reichert)

COLLEGE SCHOLARSHIP REQUIREMENTS

AN ACT

To amend and reenact section 15-62-02 of the North Dakota Century Code, relating to eligibility for scholarships.

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

§ 1. **Amendment.**) Section 15-62-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-62-02. Eligibility Requirements for Scholarships.) The sum of not to exceed five hundred dollars in any one year, shall be made available to students who are residents of the state of North Dakota and graduated from a North Dakota high school or who have a state high school general achievement certificate issued by the department of public instruction of the state of North Dakota or have passed the entrance examination and who shall be selected by the board and who desire to attend the state university, the state university of agriculture and applied science, any state normal school or teacher's college, or any state trade school or junior college, or other institution of higher learning in the state of North Dakota, and who are unable to attend such institution, school or college, without such financial assistance.

Approved March 18, 1963.

CHAPTER 178

H. B. No. 624
(Baldwin, Hofstrand)

INDIAN SCHOLARSHIPS

AN ACT

To provide scholarships in any institution of higher learning within North Dakota for North Dakota residents of Indian blood and providing qualifications therefor, and making an appropriation.

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

§ 1. State Board for Indian Scholarships.) There is hereby established a state board for Indian scholarships consisting of the director of Indian education of the department of public instruction, the executive director of the state Indian affairs commission, and the commissioner of higher education. The director of Indian education shall serve as chairman and the commissioner of higher education shall serve as secretary of the board for Indian scholarships.

§ 2. Duties of Board.) The state board for Indian scholarships shall:

1. Award scholarship grants as provided in this Act;
2. Make necessary rules and regulations and establish standards, requirements, and procedures for the administration of this Act; and
3. Encourage persons of Indian blood to attend and be graduated from any institution of higher learning within North Dakota, and to make application for scholarships.

§ 3. Number and Nature of Scholarships.) The state board for Indian scholarships shall provide fourteen scholarships each year for resident persons of at least one-fourth degree of Indian blood to entitle persons so selected to enter and attend any institution of higher learning within North Dakota upon compliance with all requirements for admission and to pursue any course or courses offered in such institutions.

§ 4. Eligibility of Candidates—Determination.) The initial and continuing scholarship eligibility of such resident persons of one-fourth degree of Indian blood shall be determined by the state board for Indian scholarships after the candidate has gained admission to any institution of higher learning within North Dakota and has had this fact certified to the board. Factors to be considered in the award of these scholarships shall be the candidate's health, character, financial need, and probable and continuing success as a student.

§ 5. Scholarship Payments—Conditions.) Upon the granting of a scholarship and acceptance thereof, the recipient shall be entitled to a credit in fees in the enrolling institution of higher learning to apply toward the cost of registration, health, activities, board, books, and other necessary items of not to exceed one hundred and fifty dollars per quarter for three quarters, or two hundred and twenty-five dollars per semester for two semesters, in any academic year. At the beginning of each quarter or semester of a regular academic year, the board for Indian scholarships shall certify to the state auditor the name of each recipient and the amount payable, and the state auditor shall issue his warrant to the state treasurer who shall pay the amount of the scholarship to the institution of higher learning in which the recipient is enrolled. Renewal of the scholarship award shall be subject to the maintenance of a minimum grade average of "C" in the courses taken.

§ 6. Unused Scholarships.) Any unused Indian scholarship funds which shall accumulate during any fiscal year shall be awarded as additional scholarships in the succeeding fiscal year under the provisions of this Act.

§ 7. Appropriation.) There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of \$12,600.00 to the state board for Indian scholarships for the biennium beginning July 1, 1963 and ending June 30, 1965.

Approved March 14, 1963.

ELECTIONS

CHAPTER 179

H. B. No. 709
(Burk, Powers)

CONSOLIDATED PRIMARY ELECTION BALLOTS

AN ACT

To amend and reenact section 2 of the Initiated Measure which was Measure No. 3 on the 1962 general election ballot, as approved by the people in November 1962, and sections 16-04-20, 16-04-26, 16-12-04, 16-13-01 and 16-17-03 of the North Dakota Century Code, relating to the consolidation of the separate primary election ballots; and to repeal sections 16-04-15 and 16-17-05 of the North Dakota Century Code, relating to separate primary election ballots.

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

§ 1. Amendment.) Section 2 of the Initiated Measure which was Measure No. 3 on the 1962 general election ballot, as approved by the people in November 1962, is hereby amended and reenacted to read as follows:

***§ 2. Consolidation of Precinct Committeemen's Ballot.)** The names of candidates seeking election as precinct committeemen shall be printed in their preferred political party column on a separate two or more party precinct committeemen ballot. The names of only those candidates for party precinct committeemen for whom nominating petitions have been filed with the county auditor as provided in section 16-17-03 shall be printed on the two or more party precinct committeemen's ballot. Columns shall be arranged so that any column shall be in an inverted position when the adjacent column or columns are in an upright position. If no nominating petition has been filed for any candidate, the ballot shall contain blank lines and spaces on which names may be written or a sticker pasted. Such ballot shall be in substantially the same form as the consolidated primary election ballot and shall be prepared for each voting precinct in the county by the county auditor and distributed by him with other election supplies in the manner in which the consolidated primary election ballots are distributed.

***Note:** For the text of this measure as initiated by the people, see section 2, chapter 444, 1963 S.L.

§ 2. Amendment.) Section 16-04-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-04-20. Separate Column on Primary Election Ballot Required for Each Political Party.) The following political parties shall be provided with separate columns on primary election ballots:

1. The Republican party;
2. The Democrat party;
3. Any party which cast five percent of the total votes cast for governor at the last general election; and
4. Any other party, if a petition signed by fifteen thousand or more electors of this state if filed with the secretary of state on or before March first of any primary election year, asking that a column be provided for such party, naming it, and stating the platform principles thereof. Candidates of such party shall be entitled to the same rights and privileges as those of other parties.

Columns shall be arranged so that any column shall be in an inverted position when the adjacent column or columns are in an upright position.

§ 3. Amendment.) Section 16-04-26 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-04-26. Registration of Voters Not Required — Poll Lists Kept by Clerks of Elections.) No registration of voters shall be required under the provisions of this chapter to vote at any primary election. The clerks of primary elections shall keep a list of the names of all persons voting at each primary election. The clerk shall return one list and one tally sheet, which shall be a part of the records and filed with other election returns.

§ 4. Amendment.) Section 16-12-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-12-04. Delivering Ballot to Elector — Stamping.) The inspector or one of the judges of election shall deliver ballots to the qualified electors and at primary elections only, shall inform each elector that if he splits his ballot or votes for candidates of more than one party his ballot will be rejected. Before delivering any ballot to an elector, the inspector or judge shall stamp on the back and near the top of the ballot the designation "official ballot" and the other words provided for in section 16-11-11, and also shall write his initials thereon.

Each qualified elector shall be entitled to receive one ballot from the judges.

§ 5. **Amendment.)** Section 16-13-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-13-01. Ballots Void and Not Counted—Part of Ballot May Be Counted.) In the canvass of the votes at any election, a ballot shall be void and shall not be counted if:

1. It is not endorsed with the official stamp and initials as provided in this title; or
2. It is impossible to determine the elector's choice from the ballot or parts of a ballot.

If a ballot is sufficiently plain to gather a part of the voter's intention therefrom, the judges of election shall count such part. However, at primary elections only, the ballot shall be void if the elector splits such ballot or votes for candidates of more than one party.

§ 6. **Amendment.)** Section 16-17-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-17-03. Petition to Place Name on Precinct Committeemen Ballot—Contents—Requirements.) Candidates for precinct committeemen shall have their names placed on the two or more precinct committeemen ballot issued within their respective precincts by filing with the county auditor not more than sixty nor less than forty days and before four o'clock p.m. of the fortieth day prior to the election petitions bearing the signatures of not less than five percent 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 provisions of chapter 16-04 in all matters not specifically provided for in this chapter. Each name on the petition shall be that of a qualified voter of the precinct of which the candidate seeks to be elected and shall 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.

§ 7. **Repeal.)** Sections 16-04-15 and 16-17-05 of the North Dakota Century Code are hereby repealed.

Approved March 14, 1963.

CHAPTER 180

H. B. No. 682
(Poling, Leet)

COUNTY OR DISTRICT CANDIDATES' NOMINATING
PETITIONS

AN ACT

To amend and reenact section 16-04-04 of the North Dakota Century Code, relating to the filing of nominating petitions of candidates for county and legislative office.

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

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

16-04-04. County and Legislative District Candidates' Petitions—Filing—Contents.) Every candidate for a county or district office shall not more than sixty days nor less than forty days and before four o'clock p.m. of the fortieth day prior to any primary election present to the county auditor a petition giving his name, post office address, the title of the office to which he aspires, and if such office is under party designation, then the petition shall state the party represented by the candidate. Such petition shall contain the names of not less than two percent and not more than five percent of the total vote cast for said office at the last general election if the office be under no party designation, and if under party designation, then the same percentage shall be applied to the total vote cast for the candidate of the party represented for the same position at the last general election, and if there were more than one party candidate, then such percentage shall be applied to the total number of votes for all party candidates divided by the number of party candidates. If no candidate was elected or votes cast for an office at the last general election, a petition shall be deemed sufficient if it has the number of signers equal to the number of the foregoing percentage requirements applied to the total average vote cast for the offices of sheriff, superintendent of schools and county auditor at the last general election in such county or district as the case may be, such average to be arrived at by dividing the total vote cast for said offices in such county or district as the case may be by three. Each name on a petition shall be that of a qualified voter and if the office is under party designation, then such name shall be subscribed under the proper party heading. Each signer of a nomination paper shall

sign but one such paper for the same office; he shall add his residence with the street number, if any, and the date of signing.

Approved March 9, 1963.

CHAPTER 181

S. B. No. 307
(Mutch)

APPOINTMENT OF JUDGES AND POLL CLERKS

AN ACT

To amend and reenact sections 16-10-07, 16-10-08 and 16-10-12 of the North Dakota Century Code, relating to the appointment of judges of elections and poll clerks.

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

§ 1. Amendment.) Section 16-10-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-10-07. Judges of Election — Appointment — Qualifications.) Prior to the opening of the polls in their precinct, the chairmen of the county central committees representing the two parties which cast the largest numbers of votes in the state at the last general election shall each appoint as a judge of the election one qualified elector of such precinct who:

1. Shall have been a resident of the precinct for at least ninety days next preceding such election; and
2. Is a member of the same political party as the chairman who appoints him.

§ 2. Amendment.) Section 16-10-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-10-08. Chairman of County Central Committee May Appoint Person as Judge of Elections.) At least one week prior to a primary or general election, the chairman of the county central committee of each of the two parties which cast the largest number of votes in the state at the last general election may appoint a member of such party as judge of election. Each person appointed shall have the qualifications prescribed in this chapter and shall be given a certificate of appointment signed by the chairman of the county central committee. If such certificate is presented to the inspector of

elections prior to the opening of the polls, he shall appoint such appointee as a judge of election.

§ 3. **Amendment.)** Section 16-10-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-10-12. Poll Clerks and Additional Poll Clerks—Appointment—Duties—Qualifications—Oaths—Compensation.) The judge of the election representing the two parties which cast the largest number of votes in the state at the last general election shall each appoint as a poll clerk a qualified elector of the precinct, who is a member of the same party making the appointment. In voting precincts or districts in which over three hundred votes are cast in any election, such judge of the election may each appoint an additional poll clerk who shall assume their duties at the time of the closing of the polls and shall assist the regular board in the opening, counting, and telling of ballots. Such additional poll clerks shall have the same qualifications and shall subscribe to the same oath as the regular poll clerks and shall receive as compensation for their services the sum of six dollars each to be paid in the same manner as regular poll clerks are paid.

Approved March 7, 1963.

CHAPTER 182

H. B. No. 734

(Leahy, Bloom, Vinje, Mueller, Burk)

ELECTION OFFICIALS' MEETING

AN ACT

To amend and reenact sections 16-10-17 and 16-11-11 of the North Dakota Century Code Supplement, providing for state's attorneys to meet with election inspectors before primary and general elections.

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

§ 1. **Amendment.)** Section 16-10-17 of the North Dakota Century Code Supplement is hereby amended and reenacted to read as follows:

16-10-17. State's Attorneys to Meet with Inspectors.) In every even-numbered year and not more than twenty days nor less than three days before each primary and general election, the state's attorney of each county shall direct all persons who will act as inspectors of elections to meet with

him at the county seat. At such meeting the state's attorney shall inform and familiarize such persons with the laws governing elections and the duties of inspectors of elections. Prior to such meeting the state's attorney shall notify the county auditor of the date of the meeting and the auditor shall deliver, or cause to be delivered by mail or other reliable method, in time for distribution to all inspectors of elections at such meeting, the official ballots, suitable manila envelopes, and all other materials as prescribed in section 16-11-11. Each person who will act as inspector of elections attending the meeting provided for in this section shall be paid mileage at the rate provided in section 11-10-15 for each mile necessarily and actually traveled in attending such meeting. The mileage shall be paid from the county general fund.

§ 2. Amendment.) Section 16-11-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-11-11. Delivery of Ballots and Manila Wrappers—Official Stamp Delivered.) At the meeting provided for in section 16-10-17 the county auditor shall deliver, or cause to be delivered by mail or other reliable method, to the inspector of elections in each precinct the official ballots prepared by him, together with suitable manila wrappers. Such ballots and manila wrappers shall be delivered in sealed packages marked plainly on the outside designating the number of ballots enclosed and the precinct for which they are intended. The county auditor also shall deliver or cause to be delivered to such inspector, or if that is impracticable, to one of the judges of election of such precinct, a stamp with an inepad for the purpose of stamping each ballot with the words "official ballot" and the name or number of the precinct, the name of the county, and date of the election. He also shall deliver or cause to be delivered a metal stamp, which has the name of the county inscribed thereon, for the purpose of stamping the wrapper containing the ballots as provided in section 16-13-09.

Approved March 9, 1963.

CHAPTER 183

S. B. No. 108

(Brooks, Hernett, Sinner, Morgan, Robinson, Meidinger)

CHALLENGES TO VOTERS

AN ACT

To amend and reenact section 16-12-14 of the North Dakota Century Code, relating to challengers to voters at the polls.

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

§ 1. **Amendment.**) Section 16-12-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-12-14. Challenging Right of Person to Vote — Affidavit Required — Penalty for False Swearing.) One challenger appointed and designated from each of the political party organizations shall be entitled to stand at the opening of the railing at the outside of the guardrail provided for in section 16-12-10. If any person offering to vote shall be challenged by one of such challengers or by any member of the board of elections, such person, unless such challenge is withdrawn, shall stand aside and shall not vote unless he makes an affidavit, acknowledged before the inspector of elections or any notary public, that he is a legally qualified elector of the precinct. Any person who falsely swears in order to cast his vote shall be guilty of perjury and shall be punished as prescribed in section 12-14-13.

Approved March 5, 1963.

CHAPTER 184

H. B. No. 819

(Leahy, Wagner)

ELECTION CONTESTS

AN ACT

To create and enact section 16-15-01.1 of the North Dakota Century Code, authorizing and providing a method of contesting the election of state officials, and to amend and reenact section 16-15-02 relating to answer in contest of elections.

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

§ 1.) Section 16-15-01.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

16-15-01.1. Notice of Contest of Election to State Office—Who May Contest—Contents of Notice—Service.) Any person claiming the right to hold any state office, or any elector of this state desiring to contest the validity of a statewide election or the right of any person declared elected to any state office to hold such office, within twenty days after the canvass of the votes of such election, shall give written notice to the person whose election he intends to contest. A contest of election may be brought by a person claiming such office in his own name as plaintiff, but such contest cannot be brought by any other person unless the notice of contest is endorsed with the approval of the attorney general, or in case of his absence or refusal to approve it, with the approval of a judge of the Burleigh County district court. Such notice of contest shall be in writing, shall set forth the facts and grounds upon which the contestant relies in his contest, and shall be verified as a pleading in a civil action. Such notice shall be served in the same manner as a summons in a civil action. If the person whose election is contested cannot be found, or if he shall have ceased to have a residence in this state, then the notice shall be served by leaving the same at the house where he last resided. If no service can be made as provided in this section, or if no such residence can be found in the state, the judge of the Burleigh County district court may direct expressly the manner of such service. All provisions of this chapter not in conflict with the intent and purpose of this section shall apply to election contests under this section.

§ 2. Amendment.) Section 16-15-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-15-02. Answer to Notice of Contest—Contents—Service.) Within ten days after service of the notice mentioned in sections 16-15-01 and 16-15-01.1, the contestee shall answer such notice, admitting or denying the facts alleged therein and stating any other grounds upon which he rests the validity of his election. All allegations set forth in the notice and not denied in the answer shall be deemed admitted. Such answer shall be served as a pleading in a civil action, and, when the contestant appears by attorney, the service thereof may be made upon the attorney.

Approved March 6, 1963.

CHAPTER 185

H. B. No. 759
(Aamoth, Baldwin)

COUNTY COMMITTEE MEMBERSHIP

AN ACT

To amend and reenact section 16-17-09 of the North Dakota Century Code, authorizing the county committee to appoint former members of North Dakota's legislative assembly as ex officio members of such county committee.

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

§ 1. **Amendment.)** Section 16-17-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-17-09. County Committee of Political Party—How Constituted.) The precinct committeeman of a party, elected or appointed as provided in this chapter, together with the nominees for, and the members of the legislative assembly of that party, shall constitute the county committee of such party. The county committee upon a majority vote of its members may appoint any former member of the legislative assembly as an ex officio member of such county committee.

Approved March 9, 1963.

FIRES

CHAPTER 186

H. B. No. 560
(Poling, Burvee)

FIRE EXTINGUISHERS

AN ACT

To amend and reenact sections 18-08-10, 18-08-11 and 18-12-13 of the North Dakota Century Code, relating to the sale and use of fire extinguishers in public schools and within the state generally, and declaring an emergency.

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

§ 1. **Amendment.**) Section 18-08-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

18-08-10. Prohibiting Sale, Distribution, and Possession of Fire Extinguishers Containing Certain Toxic and Poisonous Vaporizing Liquids.) No person, firm, association, partnership or corporation shall sell, distribute or purchase any fire extinguisher, if the extinguisher contains any of the following liquids:

Carbon tetrachloride CCl_4
 Chlorobromomethane CH_2BrC_1
 Azeotropic chlormethane CM_7
 Dibromodifluoromethane CBr_2F_2
 1,2-Dibromo-2-chloro-1, 1,2-trifluoroethane $CBrF_2CBrClF$
 1,2-Dibromo-2, 2-difluoroethane $CH_2BrCBrF_2$
 Methyl bromide CH_3Br
 Ethylene dibromide CH_2BrCH_2Br
 Hydrogen bromide HBr
 Methylene bromide CH_2Br_2
 Bromodifluoromethane $CHBrF_2$

or any other toxic or poisonous vaporizing liquid. No fire extinguisher of a type not approved by the Underwriters' Laboratories or by the Factory Mutual Laboratories shall be sold or offered for sale within the state.

§ 2. **Amendment.**) Section 18-08-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

18-08-11. Penalty.) Any person, firm, association, partnership or corporation violating the provisions of section 18-08-10, as amended, shall be punishable by a fine not to exceed one hundred dollars, or not to exceed thirty days in jail, or by both such fine and imprisonment.

§ 3. Amendment.) Section 18-12-13 of the North Dakota Century Code Supplement is hereby amended and reenacted to read as follows:

18-12-13. Fire Extinguishers.)

1. Fire extinguishers shall be of a type approved by the Underwriters' Laboratories, Inc. or Factory Mutual Laboratories.
2. They shall be housed in a special cabinet or wall rack readily accessible at all times.
3. Extinguishers shall be sized and located as prescribed in the current edition of National Fire Protection Association's pamphlet No. 10.
4. Fire extinguishers of class A type shall be located in corridors, storage areas of combustible materials, wood shops, on auditorium stages.
5. Fire extinguishers of B and C type shall be located in heating plant rooms, shops, homemaking rooms, chemistry and physics laboratories, kitchens and garages.
6. No fire extinguisher containing a vaporizing type liquid prohibited by section 18-08-10 shall be installed in any school.
7. It is important to have the right type of fire extinguisher readily available for the kind of fire likely to occur in the particular location. The following information shall be used in selecting and locating fire extinguishers:
 - (a) Standpipes and Hose Racks. General use throughout school buildings. Class A. Do not use for electrical and flammable liquid fires.
 - (b) Carbon Dioxide or Bromotrifluoromethane (CBrF₃). Near flammable liquid storage, electrical equipment panels and science laboratory equipment. Class B and C. Good for use on flammable liquid or electrical fires. Not good for deep seated or smoldering fires.
 - (c) Dry Chemical. Near flammable liquid storage, garages, auto mechanic shops. Class B and C. Good for use on flammable liquid fires and electric fires.

Class A fire extinguishers are water under pressure to be used for corridor, storage areas, work shops, areas of combustible materials, and auditoriums.

Where the source of fuel for boiler or furnace rooms, or garages, is liquefied petroleum gas, natural gas or fuel oil, a ten pound dry chemical type of extinguisher shall be used.

For kitchens, science rooms, chemistry rooms, laboratories, at least five pound CO₂ type or equivalent Bromotrifluoromethane (CBrF₃) type is recommended.

Standpipe system shall be installed in buildings over two stories in height above the highest grade and more than ten thousand square feet in area per floor.

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

Approved February 8, 1963.

CHAPTER 187

H. B. No. 841
(Seel, Rieger, Bloom)

RURAL FIRE ROUTING

AN ACT

To provide for the establishment of rural routing systems to enable fire and other emergency vehicles to quickly and accurately locate the scene of an emergency.

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

§ 1. State Fire Marshal to Establish Rural Routing Systems.) The state fire marshal, with the advice and cooperation of the North Dakota firemen's association may establish a system of rural routings which shall be as uniform as is practicable throughout the state, for the purpose of aiding rural fire-fighting equipment and other emergency vehicles in locating and arriving quickly at the scene of a fire or other emergency within any area which they might logically be called upon to serve.

Approved March 13, 1963.

CHAPTER 188

H. B. No. 582
(Poling, Kitzmann)

SCHOOL FIRE PREVENTION CODE

AN ACT

To create and enact subsection 9 of section 18-12-06 and to amend and reenact section 18-12-12 of the North Dakota Century Code Supplement, relating to fire protection requirements for school buildings, and declaring an emergency.

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

§ 1.) Subsection 9 of section 18-12-06 of the North Dakota Century Code Supplement is hereby created and enacted to read as follows:

9. Partition construction of rooms having a capacity of less than two hundred persons separating them from corridors, shall have a fire rating of at least three-fourths hour, except doors. Such a separation may have one-fourth inch wire glass in steel framing as a part of the partition with not more than a permissible ten percent of the aggregate wall area being combustible or where outside exits are provided from every room in the affected section, such partitions will not be required.

§ 2. **Amendment.)** Section 18-12-12 of the North Dakota Century Code Supplement is hereby amended and reenacted to read as follows:

18-12-12. Interior Finish.) 1. Exposed interior materials shall not have flame spread ratings greater than:

- a. 75 in exit stairways and exit hallways that are part of required exit ways, unless the building is sprinklered.
- b. 75 in all portions of building more than 75 feet in height except that in rooms or spaces 1500 square feet or less, the exposed interior materials may have a flame spread rating of not greater than 200, unless the building is sprinklered.
- c. 75 in all portions of buildings used for institutional occupancies, unless the building is sprinklered.
- d. 200 in all portions of buildings not required to have lower flame spread ratings by subdivisions a, b, or c.

2. Notwithstanding the provisions of subsection 1, not more than ten percent of the aggregate wall and ceiling areas of any room, space, stairway or hallway may have a flame spread rating of not more than 200 where interior materials are required to have a lower flame spread rating. Paint, varnish, wallpaper, wallcloth, curtains, and draperies shall not be deemed exposed wall and ceiling surface materials under this section. The exposed faces of heavy timber construction (decking, planking, and structural members) are excluded from flame spread requirements. Interior materials shall be classified in accordance with their average flame spread rating on the basis of tests conducted in accordance with American Society For Testing Materials standard No. E84, latest revision.

3. In one-story buildings wall and ceiling treatments of paint, varnish, wallpaper, wallcloth or acoustical materials if used, shall add no more than a flame spread of 50 to the flame spread rating of the basic wall, ceiling or roof deck material to which it is applied or attached. In multistoried buildings wall and ceiling treatments of paint, varnish, wallpaper, wallcloth or acoustical treatments, shall have a flame spread of 25 or less except that in lobbies, not over 20 percent of the wall or ceiling area may have a flame spread rating not over 75.

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

Approved March 15, 1963.

FOODS, DRUGS, OILS, AND COMPOUNDS

CHAPTER 189

H. B. No. 632
(Winge, Johnson)

IMITATION ICE CREAM LICENSES

AN ACT

To amend and reenact sections 19-06-01, 19-06-02, 19-06-03, 19-06-04, 19-06-05, and 19-06-06 of the North Dakota Century Code, relating to the licensing of imitation ice cream dealers and manufacturers, making an appropriation and declaring an emergency.

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

§ 1. Amendment.) Section 19-06-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-06-01. Definitions.) In this chapter unless the context or subject matter otherwise requires:

1. "Ice milk and ice milk mix" shall mean and include any frozen, or unfrozen substance, mixture, or compound which is not ice cream, milk sherbet, ice, or frozen or malted milk as the same are defined by the department, regardless of the name under which it is sold or offered for sale:
 - a. If the freezing of such substance, mixture or compound is accompanied by agitation of the ingredients thereof;
 - b. If such substance, mixture or compound is made in imitation or semblance of ice cream;
 - c. If such substance, mixture, or compound is prepared or frozen in the same manner as ice cream is customarily prepared or frozen; or
 - d. Standards for the composition of ice milk shall be issued by the state dairy commissioner;
2. "Department" shall mean the department of agriculture and labor;
3. "Manufacturer" shall mean and include any person, firm or corporation who makes, produces or processes any ice milk for sale to retailers or consumers.

§ 2. Amendment.) Section 19-06-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-06-02. Unlawful to Sell Ice Milk at Wholesale or Retail Without License.) No manufacturer shall sell, exchange or offer for sale at wholesale or retail or have in his possession with intent to sell, offer for sale or for exchange at wholesale or retail in this state, any ice milk without first having obtained a license therefor from the department.

§ 3. Amendment.) Section 19-06-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-06-03. Application for License.) Any manufacturer making application for a license to sell at wholesale or retail ice milk shall make the same upon a form prescribed by the department, and shall show the name of the county in which the applicant seeks to do business and the location of his place of business if he is a retailer.

§ 4. Amendment.) Section 19-06-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-06-04. Licenses—Term—Revocation.) A license for the manufacturing of ice milk shall be issued by the department for a period of one year beginning on the first day of January of the year of issue and terminating on the thirty-first day of December following the date of issuance thereof. Each license shall cover but one manufacturer and shall be valid throughout the entire state. A license issued under this chapter shall not be transferable, and the department may revoke any such license for a violation of any provision of this chapter.

§ 5. Amendment.) Section 19-06-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-06-05. License Fees.) The fees for licenses to manufacture ice milk shall be ten dollars, provided, however, that only one license shall be required of a manufacturer in this state for the place where he manufactures ice milk or ice milk mix, whether said products are sold at wholesale, retail or both at such place. No ice milk manufacturer's license shall be required of any manufacturer holding a valid license to purchase and process dairy products.

§ 6. Amendment.) Section 19-06-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-06-06. Notice to Purchasers.) Any manufacturer selling ice milk to consumers shall display a sign so placed or carried as to be easily read by purchasers bearing the words "ice milk" in letters at least two inches in height and one inch in width.

§ 7. **Appropriation.)** There is hereby appropriated out of any moneys in the general fund not otherwise appropriated, the sum of \$5,660.00 or so much thereof as may be required for the payment of refunds to purchasers of retail dealers' or peddlers' licenses, or manufacturers' licenses when such manufacturer is exempted from the licensing requirements of chapter 19-06, for those licenses purchased and paid for, for the calendar year 1963, prior to the effective date of this Act.

§ 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, 1963.

CHAPTER 190

H. B. No. 698
(Wagner)

LABELING OF HAZARDOUS SUBSTANCES

AN ACT

To regulate the labeling of packages of hazardous substances intended or suitable for household use and providing penalties.

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

§ 1. **Short Title.)** This Act may be cited as the "Hazardous Substances Labeling Act".

§ 2. **Definitions.)** In this chapter, unless the context or subject matter otherwise requires:

1. "Department" means the state laboratories department;
2. "Person" includes an individual, partnership, corporation, and association;
3. "Hazardous substance" means any substance except drugs and medicines or mixture of substances except drugs and medicines which is toxic, corrosive, and irritant, strong sensitizer, flammable, or which generates pressure through decomposition, heat, or other means, if such hazardous substance or mixture of hazardous substances may cause substantial personal injury or illness during any customary or reasonably anticipated handling or use; provided, however, the term "hazardous substance" shall not include substances stored and intended for use as fuel in a heating, cooking, or refrigeration system;

4. "Toxic" shall apply to any substance which has the inherent capacity to produce bodily injury to man through ingestion, inhalation, or absorption through any body surface;
5. "Highly toxic" means any substance which falls within any of the following categories: produces death within fourteen days in half or more than half of a group of ten or more laboratory white rats each weighing between 200 and 300 grams, at a single dose of 50 milligrams or less per kilogram of body weight, when orally administered; or produces death within fourteen days in half or more than half of a group of ten or more laboratory white rats each weighing between 200 and 300 grams, when inhaled continuously for a period of one hour or less at an atmospheric concentration of 200 parts per million by volume or less of gas, vapor, mist, or dust, provided such concentration is likely to be encountered by man when the substance is used in any reasonably foreseeable manner; or produces death within fourteen days in half or more than half of a group of ten or more rabbits tested in a dosage of 200 milligrams or less per kilogram of body weight, when administered by continuous contact with the bare skin for twenty-four hours or less. If the department finds that available data on human experience with any substance indicate results different from those obtained on animals in the above named dosages or concentrations, the human data shall take precedence;
6. "Corrosive" means any substance which in contact with living tissue will cause destruction of tissue by chemical action; but shall not refer to action on inanimate surfaces;
7. "Irritant" means any substance not corrosive which on immediate, prolonged, or repeated contact with normal living tissue will induce a local inflammatory reaction;
8. "Strong sensitizer" means any substance which will cause, on normal living tissue through an allergic or photodynamic process, a hypersensitivity which becomes evident on reapplication of the same hazardous substance and which is designated as such by the department. Before designating any substance as a strong sensitizer, the department shall, after public hearing, following due notice, find that the frequency of occurrence and severity of the reaction indicate a significant potential for causing hypersensitivity;
9. "Extremely flammable" shall apply to any substance which has a flash point at or below 20 degrees Fahrenheit as determined by the Tagliabue Open Cup Tester,

and the term "flammable" shall apply to any substance which has a flash point of above 20 degrees to and including 80 degrees Fahrenheit, as determined by the Tagliabue Open Cup Tester; except that the flammability of the contents of self-pressurized containers shall be determined by methods generally applicable to such containers and established by regulations issued by the department;

10. "Label" means a display of written, printed, or graphic matter upon or attached to the immediate package or container of any hazardous substance; and a requirement made by or under authority of this Act that any word, statement, or other information appear on the label shall not be considered to be complied with unless such word, statement, or other information also appears on the outside container or wrapper, if any there be, unless it is easily legible through the outside container or wrapper and on all accompanying literature where there are directions for use, written, or otherwise;
11. "Immediate container" does not include package liners;
12. "Misbranded package" means any container of a hazardous substance intended or suitable for household use which fails to bear a label:
 - a. Which states conspicuously the name and place of business of the manufacturer, packer, or distributor; the common usual name, or the chemical name, or the recognized generic name, not trade name only, of the hazardous substance or of each component which contributes substantially to its hazard; the signal word "DANGER" on substances which are extremely flammable, corrosive, or highly toxic; the signal word "WARNING" or "CAUTION" on all other hazardous substances; an affirmative statement of the principal hazard or hazards, such as "FLAMMABLE", "VAPOR HARMFUL", "CAUSES BURNS", "ABSORBED THROUGH SKIN", or similar wording descriptive of the hazard; precautionary measures describing the action to be followed or avoided; instructions, when necessary, for the first-aid treatment in case of contact or exposure, if the substance is hazardous through contact or exposure; the word "POISON" for any hazardous substance which is defined as "HIGHLY TOXIC" by this section; instructions for handling and storage of packages which require special care in handling or storage; and the statement "KEEP OUT OF THE REACH OF CHILDREN", or its practical equivalent; and

- b. On which any statements required under this subsection are located prominently and are in the English language in legible type in contrast by typography, layout, or color with other printed matter on the label; provided, that the department shall, by regulations, provide for minimum information which shall appear on the labels for small packages, which labels need not include all of the information required by this subsection; provided further, that the department may permit less than the foregoing statement of the hazard or precautionary measures for labels of hazardous substances presenting only minor hazards; and the term "misbranded package" shall not apply to packages of economic poisons so labeled that if introduced in interstate commerce, it would be in compliance with the federal Insecticide, Fungicide, and Rodenticide Act, nor to packages of foods, drugs, and cosmetics so labeled that if introduced in interstate commerce, it would be in compliance with the federal Food, Drug, and Cosmetic Act nor to any package of a hazardous substance so labeled that if introduced into interstate commerce, it would be in compliance with the federal Hazardous Substances Labeling Act and rules and regulations promulgated by the Secretary of Health, Education and Welfare pursuant to that Act.

§ 3. Prohibited Acts.) The following acts and the causing thereof are hereby prohibited:

1. The sale or delivery for sale of any misbranded package of a hazardous substance;
2. The alteration, mutilation, destruction, obliteration, or removal of the whole or any part of the label of, or the doing of any other act with respect to a hazardous substance, if such act is done while the substance is held for sale and which results in the hazardous substance being in a misbranded package;
3. The refusal to permit entry or inspection as authorized by this Act; and
4. A re-use of food, drug, or cosmetic or any beverage containers still bearing original labels or identifiable as such by characteristic shape, impression, or closures as containers for hazardous substances.

§ 4. Penalties.) Any person who violates any of the provisions of this Act shall be guilty of a misdemeanor. No person shall be subject to the penalties of this section, for having violated subsection 1 of section 3 of this Act in respect of any

hazardous substance shipped or delivered for shipment for export to any foreign country, in a package marked for export and branded in accordance with the specifications of the foreign purchaser and in accordance with the laws of the foreign country.

§ 5. **Stop-Sale Orders — Seizures.**) The department shall issue and enforce a written or printed “stop-sale use or removal” order to the owner or custodian of any hazardous substance when the department finds that the product is being offered or exposed for sale in violation of any of the provisions of this Act, and the order shall direct that the product shall be held at a designated place until the provisions of this Act have been complied with and the product is released in writing by the department. However, the owner or custodian of such product has the right to appeal from such order to a court of competent jurisdiction in the county where the product is found, praying for a judgment as to the justification of the order, and for the discharge of the product from the order prohibiting the sale in accordance with the findings of the court. The provisions of this section shall not be construed as limiting the right of the enforcement officer to proceed as authorized by other provisions of this Act. The department shall release the hazardous substance held under any “stop-sale use or removal” order when the requirements of this Act have been complied with and upon payment of all reasonable costs and expenses incurred in connection with such order. When the department issues and enforces a “stop-sale use or removal” order against any hazardous substance declared in violation of this Act, in possession of any dealer or distributor, such dealer or distributor may return to the person from whom such hazardous substance was purchased all unbroken retail containers affected by such order and such person shall reimburse the dealer or distributor for the full purchase price, including all delivery costs. Any hazardous substance found not to be in compliance with this Act shall be subject to seizure on complaint of the department to a court of competent jurisdiction in the county in which the product is located. In the event the court finds that the hazardous substance is in violation of the provisions of this Act and orders the condemnation of the product, it shall be disposed of in any manner consistent with the character of the hazardous substance and the laws of the state. In no instance shall the disposition of the hazardous substance be ordered by the court without first giving the claimant an opportunity to apply to the court for the release of the product or for permission to process or relabel the product to bring it into compliance with this Act.

§ 6. **Hearing Before Report of Criminal Violation.**) Before any violation of this Act is reported by the department to

any state's attorney for institution of a criminal proceeding, the person against whom such proceedings is contemplated shall be given appropriate notice and an opportunity to present his views, either orally or in writing, with regard to such contemplated proceeding.

§ 7. Regulations and Hearings.) The department is authorized, after public hearing following due notice, to promulgate regulations for the efficient enforcement of this Act.

§ 8. Examinations and Investigations.) The department is authorized to conduct examinations, inspections, and investigations for the purposes of this Act through officers and employees of the department or through any health officer or employee of the state of North Dakota. For purposes of enforcement of this Act, officers, or employees duly designated by the department, upon presenting appropriate credentials to the owner, operator, or agent in charge, are authorized to enter, at reasonable times, any factory, warehouse, or establishment in which hazardous substances are held, or to enter any vehicle being used to transport or hold such hazardous substances; and to inspect and sample, at reasonable times and within reasonable limits and in a reasonable manner, finished hazardous substances in retail packages and labeling thereon in such factory, warehouse, establishment, or vehicle. Each such inspection shall be commenced and completed with reasonable promptness.

§ 9. Records of Shipment.) For the purpose of enforcing the provisions of this Act, carriers and persons receiving hazardous substances or holding such hazardous substances so received, shall, upon the request of an officer or employee duly designated by the department, permit such officer or employee, at reasonable times, to have access to and to copy all records showing the movement of any such hazardous substance, or the holding thereof during or after such movement, and the quantity, shipper, and consignee thereof; and it shall be unlawful for any such carrier or person to fail to permit such access to any copying of any record so requested when such request is accompanied by a statement in writing specifying the nature or kind of such hazardous substance to which such request relates; provided, that evidence obtained under this section shall not be used in a criminal prosecution of the person from whom obtained.

§ 10. Publicity.) The department may cause to be published from time to time reports summarizing any judgments, decrees, or court orders which have been rendered under this Act, including the nature of the charge and the disposition thereof. The department may also cause information to be dis-

seminated regarding hazardous substances in situations involving, in the opinion of the department, imminent danger to health. Nothing in this section shall be construed to prohibit the department from collecting, reporting, and illustrating the results of the investigations of the department.

Approved March 15, 1963.

GAME, FISH, AND PREDATORS

CHAPTER 191

H. B. No. 678

(Breum, Shablow, Schaffer, Vendsel)

GAME AND FISH ADVISORY BOARD

AN ACT

To provide for a state game and fish advisory board, prescribing its duties, powers, and compensation.

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

§ 1. Advisory Board—Appointment—Qualifications—Term.)

There is hereby created a state game and fish advisory board which shall consist of six members, one from each judicial district of this state, appointed by the governor. Not less than three members shall be bona fide farmers or ranchers. Appointments to the first advisory board shall be made by the governor for terms expiring in one, two, three, four, five, and six years respectively, from July 1, 1963, or until a successor has been appointed and qualified. Thereafter appointments shall be for a term of six years from the first day of July of the year of expiration of the basic term, and until a successor has been appointed and qualified. Vacancies occurring other than by the expiration of an appointive term shall be filled by appointment for the remainder of the term only. The members of the advisory board shall be subject to removal by the governor for cause only. The advisory board shall select from their members a chairman, vice chairman, and secretary who shall serve in such positions until June thirtieth of the year next following their selection.

§ 2. Compensation.) Each member of the advisory board shall be paid a per diem of ten dollars for each day of service in going to, attending, and returning from meetings of the advisory board. Each member shall be reimbursed for necessary and actual expenses at the rates and in the manner provided by law for other state officers. Such compensation and expenses shall be paid out of the game and fish department appropriations.

§ 3. Meetings and Duties.) The state game and fish advisory board shall meet at least twice each fiscal year, one meeting to be held in August and one meeting in April. Each meeting shall be held at the state capitol and four members

shall constitute a quorum. The advisory board shall have the authority to advise the state game and fish commissioner regarding any policy of hunting, fishing, and trapping regulations and may make general recommendations in regard to the operation of the state game and fish department and the programs thereof, which the commissioner may carry out. The provisions of this section may not be construed as limiting or restricting the powers, duties, and authority of the governor in the issuance of orders and proclamations as provided in chapter 20-08.

Approved March 16, 1963.

CHAPTER 192

H. B. No. 816
(Breum, Solberg, Johnston)

GAME AND FISH LICENSES

AN ACT

To amend and reenact subsection 2 of section 20-03-02 and sections 20-03-12 and 20-03-13 of the North Dakota Century Code Supplement, relating to exemptions from fishing licenses and the schedule of fees for hunting, trapping or fishing licenses, and providing for the use of funds for the propagation of upland game.

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

§ 1. Amendment.) Subsection 2 of section 20-03-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. Any resident of this state under the age of sixteen years may fish without first having obtained a resident fishing license as prescribed in this chapter.

§ 2. Amendment.) Section 20-03-12 of the North Dakota Century Code Supplement is hereby amended and reenacted to read as follows:

20-03-12. Schedule of Fees for All Hunting, Trapping or Fishing Licenses.) The various hunting, trapping, or fishing license fees shall be as follows:

1. For a resident hunting license, the sum of two dollars;
2. For a nonresident hunting license, the sum of twenty-five dollars;
3. For a resident big game hunting license, the sum of six dollars;

4. For a nonresident big game hunting license, the sum of fifty dollars and for a nonresident bow license, the sum of twenty-five dollars;
5. For a resident trapping license, the sum of one dollar;
6. For a nonresident trapping license, the sum of one hundred dollars;
7. For a resident fishing license, the sum of two dollars; except that for a resident sixty-five years of age or over, the license fee shall be one dollar;
8. For a nonresident fishing license, the sum of five dollars;
9. For a nonresident short term fishing license the sum of one dollar; and
10. For a resident family fishing license, the sum of three dollars.

§ 3. **Amendment.)** Section 20-03-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

20-03-13. Hunting License Fees, Use Restricted.) No moneys accruing to this state from the license fees paid by hunters shall be used for any purpose other than the administration of the state game and fish department, except as otherwise provided by law. The game and fish department shall allocate not less than fifty thousand dollars during each biennium from moneys collected under the provisions of 20-03-12 to the stocking and propagation of upland game.

Approved March 21, 1963.

CHAPTER 193

H. B. No. 713
(Aamoth)

MISREPRESENTATION IN LICENSE APPLICATION

AN ACT

To amend and reenact section 20-03-35 of the North Dakota Century Code, relating to the making of a misrepresentation in applying for a game or fish license or permit.

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

§ 1. **Amendment.)** Section 20-03-35 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

20-03-35. Making Misrepresentation in Application for, or Alteration in License or Permit Unlawful—Penalty.) Any

person who makes any willful misrepresentation in his application for a license or permit, or who makes any alteration in a license or permit already issued, is guilty of a misdemeanor and shall be punished by a fine of not less than fifty dollars nor more than one hundred dollars, or by imprisonment in the county jail for not less than twenty days nor more than thirty days, or by both such fine and imprisonment.

Approved March 15, 1963.

CHAPTER 194

H. B. No. 726

(Johnston, Loder, Neukircher, Vendsel)

REVOCATION OF LICENSES

AN ACT

To amend and reenact section 20-03-37 of the North Dakota Century Code, relating to the revocation of game and fish licenses or permits.

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

§ 1. **Amendment.**) Section 20-03-37 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

20-03-37. Violators May Have Licenses or Permits Revoked—Revoked Licenses or Permits Not To Be Replaced—Reinstating License or Permit.) Any person convicted of violating any of the provisions of this title, in addition to the fine and imprisonment provided, may have any license or permit held by him revoked for the privileges he has violated, and no license or permit shall be issued to such person, except as hereinafter provided, for the remainder of the year in which such violation occurred. However, in the case of a revocation of a fishing license for a first violation, such license or permit shall be reinstated thirty days from the date of such revocation.

Approved March 9, 1963.

CHAPTER 195

S. B. No. 261
(Sorlie, Robinson)

FIREARMS AFIELD PROHIBITED, REPEAL

AN ACT

To repeal section 20-04-08 of the North Dakota Century Code, relating to the prohibiting of any person from going afield with a shotgun from July 1st to the opening of hunting season.

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

§ 1. Repeal.) Section 20-04-08 of the North Dakota Century Code is hereby repealed.

Approved March 8, 1963.

CHAPTER 196

S. B. No. 216
(Reichert, Ringsak, Robinson, Kautzmann)

GOLDEN EAGLES PROTECTED

AN ACT

To protect the golden eagle, providing penalties, and declaring an emergency.

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

§ 1.) No person shall take, kill, hunt, possess, sell, purchase, pursue, shoot at, disturb, capture, or destroy any golden eagle, or any nest or egg thereof, at any time, within the state of North Dakota.

§ 2. Penalty.) Any person violating any provision of this Act shall be punished by a fine of not less than twenty-five dollars or more than two hundred dollars, or by imprisonment for not more than 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 its passage and approval.

Approved March 9, 1963.

CHAPTER 197

S. B. No. 148
(Brooks)

BIG GAME SEASON OPENING

AN ACT

To amend and reenact section 20-05-02 of the North Dakota Century Code, relating to the season for taking big game, and to repeal section 20-05-02.1 of the North Dakota Century Code, relating to the hour for the opening of the deer and antelope hunting season, and to the transportation, shipment or possession of big game.

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

§ 1. **Amendment.)** Section 20-05-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

20-05-02. Season for Taking and Transporting Big Game—Bag Limit.) Any person having a deer hunting license or antelope permit as prescribed in this title may take, kill, and transport one deer or one antelope, as the case may be, in this state, during the open or lawful season therefor which shall open at twelve o'clock noon Central Standard Time on any Friday in November or at such earlier date as may be established by proclamation of the governor in accordance with the provisions of this title, except that any earlier opening date proclaimed by the governor shall be at twelve o'clock noon Central Standard Time on a Friday. Nothing contained in this section shall be construed as prohibiting the transportation, shipment, or possession within this state of big game lawfully taken in other states when properly tagged with evidence that it has been lawfully taken.

§ 2. **Repeal.)** Section 20-05-02.1 of the North Dakota Century Code is hereby repealed.

Approved March 9, 1963.

CHAPTER 198

H. B. No. 670
(Johnston)

HUNTERS' CLOTHING

AN ACT

To amend and reenact section 20-05-05 of the North Dakota Century Code, relating to required clothing for hunters.

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

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

20-05-05. Red, Yellow, or Orange Color To Be Displayed by Hunters of Wild Turkeys and Big Game—Exception.) All persons shall wear red, yellow, or orange caps while hunting big game animals or wild turkeys. In addition every person, while hunting big game animals or wild turkeys shall have one hundred and forty-four square inches of red, yellow, or orange color conspicuously displayed on his back and one hundred and forty-four square inches of red, yellow, or orange conspicuously displayed on his chest. The provisions of this section shall not apply to any person hunting big game animals or wild turkeys with bow and arrows during special seasons established for bow and arrow hunting.

Approved March 9, 1963.

CHAPTER 199

S. B. No. 328

(Sorlie, Roen, Erickson, Kamrath)

GAME AND FISH PROCLAMATIONS

AN ACT

To amend and reenact section 20-08-03 of the North Dakota Century Code, relating to the contents of the governor's proclamation relating to the taking of game birds, fish, and game animals, and to remove therefrom provision relating to eligibility of applicants who have been unsuccessful in four successive lotteries.

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

§ 1. **Amendment.)** Section 20-08-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

20-08-03. Contents of Governor's Order or Proclamation Relating to the Taking of Game Birds, Fish, and Game Animals.) An order or proclamation issued by the governor pursuant to the provisions of this chapter shall prescribe, as to each species of game birds, fish, or game animals named therein, the following:

1. In what manner the same may be taken;
2. In what number the same may be taken and possessed and may limit such numbers by sex;
3. In what places the same may be taken; and
4. At what times the same may be taken and possessed.

The governor, in his order or proclamation, may provide for the number of big game permits or licenses to be issued for the taking of each species and the manner in which such permits or licenses shall be issued for the big game only. When a limited number of big game licenses are issued by lottery and the number of applicants is greater than the number of licenses to be issued, any applicant who is successful in obtaining such a license shall not be eligible to apply for a license to hunt the same species of big game for the five ensuing lottery years, except that owner operators or operators, living within the boundaries of the legal open area shall be entitled to purchase one such license for each farmstead unit in each consecutive season. The effective date of this bill shall be July 1, 1964.

Approved March 18, 1963.

GOVERNMENTAL FINANCE

CHAPTER 200

S. B. No. 53

(Holand, Luick, Becker)

(From LRC Study)

FINANCING OF EDUCATION AND WELFARE

AN ACT

To amend and reenact sections 15-19-06, 15-19-07, 15-40-01, 15-40-03, 15-40-04, 15-40-05, 15-40-10, 15-40-11, 15-40-15, 15-40-17, 15-40-20, 15-40-22, 15-40-23, 15-40-29, 50-01-09.1, 50-01-13, 50-06-14, 50-07-21, 50-07-22, 50-10A-20, 57-39-18, 57-39-23, and 57-39-24 of the North Dakota Century Code, relating to the disposition of retail sales tax collections, the financing of programs currently financed by such collections, and providing for a transfer of funds.

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

§ 1. **Amendment.)** Section 15-19-06 of the North Dakota Century Code Supplement is hereby amended and reenacted to read as follows:

15-19-06. Correspondence Courses To Be Financed from General Fund—Board May Establish Administrative and Operational Fund.) The cost of operating the correspondence courses under the provisions of this chapter shall be paid out of the general fund. All vouchers expending money therefrom shall be approved by the superintendent of public instruction. The state board of public school education may if it deems advisable establish an administrative operational fund, of not to exceed ten thousand dollars, out of the biennial appropriation of the legislative assembly for the high school correspondence study division. The fund so established shall be deposited in the Bank of North Dakota and may be drawn upon by the state director of correspondence courses in secondary education for the payment of necessary expenses in the administration and operation of the high school correspondence study division program within the limits and regulations prescribed by the board of public school education. The director shall submit a full, minute and itemized statement of every expenditure made during the month to the board in accordance with such rules and regulations as the board may prescribe and thereafter the board may, in its discretion, periodically authorize additional transfers to such operational fund, but the balance in such fund shall never exceed ten

thousand dollars, and any unencumbered balance therein at the end of any biennium shall revert to the state treasury. The fund so established may not be used to pay the salary and expense of the director. Such salary and expense shall be paid in the same manner as other state officials. In establishing and maintaining the administrative operational fund the board shall make proper requisition by submitting a duly approved voucher signed by the superintendent of public instruction through the regular channels to the state treasurer for the transfer of the necessary funds from the biennial appropriation of the high school correspondence study division. The board shall determine the amount of the bond to be posted by the director.

§ 2. Amendment.) Section 15-19-07 of the North Dakota Century Code Supplement is hereby amended and reenacted to read as follows:

15-19-07. Fees Collected Deposited in General Fund.) All fees collected by the high school correspondence study division from any source shall be remitted monthly by the director to the state treasurer and credited to the general fund of the state.

§ 3. Amendment.) Section 15-40-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-40-01. State School Aid.) All payments authorized by this chapter shall be made by the state treasurer out of the general fund of the state within the limits of legislative appropriation.

§ 4. Amendment.) Section 15-40-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-40-03. High School Correspondence Work.) The amount of money appropriated by the legislative assembly for correspondence work for a biennium, or so much thereof as may be necessary, shall be expended first by the state board of public school education for high school work by correspondence.

§ 5. Amendment.) Section 15-40-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-40-04. Vocational Education in Agriculture, Home Economics, and Distributive Occupations — Cooperation with Federal Programs.) The department of accounts and purchases shall pay moneys appropriated by the legislative assembly in any biennium for the purposes of vocational education in

agriculture, home economics, distributive occupations, and occupational information and guidance in cooperation with federal programs, to such school districts and in such manner as shall be directed in the certificate of the state board of public school education, and such board shall be charged with the duty of administering said funds through the state director of vocational education and shall do all things necessary to cooperate with the program outlined in the Smith-Hughes Act, in the George-Deen Act, and in other federal legislation adopted to further vocational education.

§ 6. Amendment.) Section 15-40-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-40-05. Emergency Funds — Appropriations — Expenditures.) The amount appropriated by the legislative assembly from time to time for emergency aid, or so much thereof as may be necessary, shall be used to aid financially distressed schools in the manner provided in this chapter. Only one-half of the amount appropriated for any biennium shall be available for expenditure during the first year of such biennium.

§ 7. Amendment.) Section 15-40-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-40-10. Expenditure of Emergency Funds — Aid Applied to Payment of Teachers' Salaries.) Aid granted to school districts for emergency aid shall be applied to the payment of teachers' salaries.

§ 8. Amendment.) Section 15-40-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-40-11. Emergency Funds — Administration — Membership of Board.) The state board of public school education shall constitute the board to carry out and perform the provisions of this chapter relating to the distribution of emergency aid funds. Such board shall prescribe such rules and regulations not inconsistent with the provisions of this chapter as it shall deem reasonable and necessary.

§ 9. Amendment.) Section 15-40-15 of the North Dakota Century Code Supplement is hereby amended and reenacted to read as follows:

15-40-15. Reciprocal Agreement for Payment from County Equalization Fund.) The superintendent of public instruction may enter into reciprocal agreements with the state educational agencies or officers of bordering states in regard to

payments from the county equalization fund for high school and elementary students attending public schools in a bordering state. Such agreements may provide for the payment from the county equalization fund for students from North Dakota attending schools in adjoining states in sums equal, on a per student basis, to payments from the county equalization fund received by North Dakota schools. The superintendent of public instruction by certificate to the department of accounts and purchases may authorize such payments, from the appropriation for state school aid to the county equalization fund, to schools in adjoining states for the attendance of such high school and elementary students. The payment by the district of residence for each student shall not exceed the payments established by reciprocal agreement less the amounts otherwise paid for such student under the provisions of this chapter. The department of accounts and purchases, within the limits of legislative appropriation, shall make such payments to the appropriate public school, school district or agency of the adjoining state. Such reciprocal agreements may include but shall not be limited to payments for tuition and transportation costs connected with the education of such children in bordering states.

§ 10. Amendment.) Section 15-40-17 of the North Dakota Century Code Supplement is hereby amended and reenacted to read as follows:

***15-40-17. High School Payments Are Exclusive — Exception.)** No school district shall charge or collect from any non-resident high school student, his parents or guardian, or the district of his residence, any registration, textbook, or laboratory fee, or any other fee or charge which is not charged to or for all resident high school students. However, a high school district shall charge tuition for nonresident high school students. The whole amount of such tuition, except as hereinafter provided, shall be paid by the district from which the pupil is admitted and shall equal the average cost of high school education per child in the county less payments from county equalization funds and from the state under this chapter. Such costs shall include expenditures from the general and sinking and interest funds, and receipts from the building fund. Credit on tuition charges shall be given by the admitting district to the extent of school taxes paid to the admitting district by the parent or guardian of the admitted student. In the event any district not providing high school education should fail or refuse to pay the tuition charges, the admitting district shall notify the county superintendent of schools of the county of residence of the student and the state superintendent of

***Note:** Section 15-40-17 was also amended by chapter 164 of the 1963 Session Laws.

public instruction of such fact, and upon verification by the county superintendent of schools that such tuition payments are due the admitting district, all county equalization fund payments and payments from the state under this chapter to the district of residence of the student shall be withheld until the tuition due the admitting district has been fully paid.

The parent or guardian of any student who is a resident of a district providing a high school education may apply to the school board of the school district of residence of the student for approval of the payment of tuition charges to another school district for attendance of the student at the high school in such other school district. If the school board of the district of residence shall approve such application, it shall pay the tuition charges in accordance with the application as approved. In the event such application shall be disapproved, the parent or guardian of the child may appeal the question to the county superintendent of schools, and a committee consisting of the county judge, state's attorney, and the county superintendent of schools shall within fifteen days consult with the school boards of the districts concerned and with the parent or guardian of the student concerned and render a decision in regard to the tuition charges. If the committee shall find the attendance of the student in question is necessitated by shorter distance or other reasons of convenience, including previous attendance in another high school, it may approve the payment of such tuition charges. The school district of residence of the student shall thereafter be required to pay such tuition charges, and upon notification by the admitting district of the failure of the district of residence to pay such tuition charges, all county equalization payments and payments from the state under this chapter to the district of residence shall be withheld in the same manner as provided in this section in the case of a district not providing a high school education. If the committee shall find that the attendance of the student at a high school outside the district is not necessitated by shorter distance or other reasons of convenience, the district of residence shall not be required to pay such tuition charges. The school board of any school district approving the payment of high school tuition charges or required to make such payments under the provisions of this section may levy an amount sufficient to pay tuition charges which levy shall not be subject to any mill levy limitations prescribed by law. This chapter, however, shall not affect the right of a school district to charge and collect such tuition as may be fixed by agreement from students who are not residents of this state.

§ 11. Amendment.) Section 15-40-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-40-20. Method of Making Payment—Use of Moneys Restricted.) The department of accounts and purchases shall make the payments provided for in this chapter for high school correspondence work, for vocational education in agriculture, home economics, and distributive occupations, and for occupational information and guidance, upon the receipt of the certificates therefor from the state board of public school education, and the department shall make the payments from the amount appropriated for emergency aid on the basis of need, and the payments to county equalization funds upon receipt of the certificates therefor from the superintendent of public instruction. Such payments shall be by warrants prepared and issued by the department of accounts and purchases and signed by the state auditor, drawn upon the general fund and made payable to the respective school districts, schools or county treasurers, as the case may be, or to the county superintendent of schools, as directed by the superintendent of public instruction. If such warrants are sent to the county superintendents, they shall deliver them to the school districts, schools, or county treasurers within their respective counties. Each clerk, secretary or other official shall make a record of each such warrant received by him and shall deliver such warrant to the treasurer. Such payments shall be deposited to the general fund of the school district or to the county equalization fund as the case may be.

§ 12. Amendment.) Section 15-40-22 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-40-22. Receipts from Federal Funds.) All moneys paid to the state by the Secretary of the Treasury of the United States under the provisions of an Act of Congress of February 25, 1920, chapter 85, 41 Statutes at Large, page 437, entitled "An Act to promote the mining of coal, phosphate, oil, oil shale, gas, and sodium on the public domain", shall be credited to the state general fund and shall be distributed only pursuant to the terms of this chapter. Such moneys shall be deemed the first moneys withdrawn or expended from the general fund for state school aid purposes.

§ 13. Amendment.) Section 15-40-23 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-40-23. Fractional Payments.) Should any appropriation made by the legislative assembly pursuant to the provisions of this chapter prove insufficient to meet all claims against such appropriation, the superintendent of public instruction shall prorate the remaining balance of the appropriation and provide for fractional payments therefrom. When such frac-

tional payments are made pursuant to this section, such payments shall constitute full payment under this chapter.

§ 14. **Amendment.)** Section 15-40-29 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-40-29. Payments to Schools and School Districts.) Not later than December thirty-first the county superintendent of schools shall certify to the county auditor a list of the school districts or schools entitled to elementary per pupil payments from the county equalization fund together with the amounts to which the several districts or schools are entitled. The county auditor shall pay to each district or school the amount received by the county from the state under the provisions of this chapter upon receiving such certificate, and shall make a second payment on or before March fifteenth in an amount to be determined by the county superintendent of schools and shall pay the balance on or before May fifteenth of each year. Payments shall be made by auditor's warrants drawn upon the county equalization fund to the respective school districts or schools. The payments shall be deposited in the general fund of the district or school.

§ 15. **Amendment.)** Section 50-01-09.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-01-09.1. County Reimbursement for Public Assistance to Nonresidents Occasioned by Federal Projects.) Whenever there is in process of construction in or adjacent to any county of this state a federal project of such magnitude as to attract to such county a large number of persons from outside such county, who are nonresidents of the state or who have gained residence in such counties, all public assistance aid to such nonresidents of the state or persons who have gained residence in such counties by reason of such federal project shall be financed solely by the state of North Dakota out of funds appropriated for such purpose by the legislative assembly and not by the county in which such persons may live or reside. The county welfare board shall furnish such public assistance in each case and shall be promptly reimbursed by the public welfare board for all such public assistance payments made by the county. Such application for reimbursement shall be made upon vouchers having the approval of the public welfare board.

§ 16. **Amendment.)** Section 50-01-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-01-13. Medical Attention and Hospitalization Furnished Poor.) In case of necessity, the county welfare board promptly

shall provide medical and surgical attention for any poor person in the county who is not provided for in a public institution. In a county where a county physician has been appointed on an annual salary, such physician shall be called to attend such poor person. The county welfare board shall cause to be furnished to such poor person the medicines prescribed by the physician. In all cases where, in the opinion of the county welfare board, hospitalization is necessary, it shall be furnished by the county upon approval or subsequent ratification by the county physician and the board, or by the board in a county having no county physician. Where such poor person is a nonresident of the state, the county furnishing such medical or surgical attention from and after January 2, 1951, shall be reimbursed within the limits of funds appropriated for such purpose by the legislative assembly for eighty percent of the expenses incurred in carrying out the provisions of this section. Such reimbursement shall be made upon vouchers having the approval of the state public welfare board.

§ 17. **Amendment.)** Section 50-06-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-06-14. Financing of Welfare Programs.) All programs carried out by the public welfare board under the provisions of this title shall be financed by payments out of the general fund, within the limits of legislative appropriation therefor. All expenditures made under the provisions of this title shall be upon warrants prepared by the department of accounts and purchases and signed by the state auditor, such expenditures to be supported by itemized vouchers to be signed by the executive director of the board or by such other officer or assistant as the board may designate and certify to the department of accounts and purchases. Any fund 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 which the funds were received.

§ 18. **Amendment.)** Section 50-07-21 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

***50-07-21. Indians — Old Age Assistance — State Funds Used.)** Any county in which an Indian reservation is located may make application to the state agency for payment, out of state funds, of the entire amount of old age assistance grants paid to ward Indians residing in the county and on the Indian reservations. When such application is made, the state agency shall make, or cause to be made, a complete investigation of the financial condition of such county. If such

***Note:** This section was repealed by section 2, chapter 328, 1963 S.L.

investigation shows that the financial condition of the county is such that it would be inequitable to ask the county to contribute its share of the amount necessary to provide old age assistance to ward Indians, the state agency may use funds appropriated for old age assistance to pay such part of the costs of old age assistance to such ward Indians as is not paid by the federal government.

§ 19. Amendment.) Section 50-07-22 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

***50-07-22. Assistance to Transients—How Paid.)** The state agency may use funds appropriated for old age assistance to pay the entire cost of old age assistance grants, not paid by the federal government, to those persons who meet the following requirements:

1. Whose residence cannot be determined to be in any county in North Dakota or in any other state in the United States; and
2. Who have resided in North Dakota for one year and who meet all the other requirements for old age assistance.

***Note:** This section was repealed by section 2, chapter 328, 1963 S.L.

§ 20. Amendment.) Section 50-10A-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

***50-10A-20. Indian — Disability Assistance — State Funds Used.)** Any county in which an Indian reservation is located may apply to the state agency for payment, out of state funds, of the entire amount of aid paid toward Indians residing in the county and on the Indian reservation. The state agency shall make, or cause to be made, a complete investigation of the financial condition of any county so applying, and if the investigation shows that the financial condition of the county is such that it would be inequitable to ask the county to contribute its share of the amount necessary to provide aid to such Indians the state agency may use funds appropriated for aid to disabled persons to pay such part of the costs of aid to such ward Indians as is not paid by the federal government.

***Note:** This section was repealed by section 2, chapter 328, 1963 S.L.

§ 21. Amendment.) Section 57-39-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-39-18. Tax and Penalties Paid to Commissioner—Disposition.) All fees, taxes, interest, and penalties imposed and

collected under this chapter shall be paid to the commissioner in the form of a remittance payable to the treasurer of the state of North Dakota, and said commissioner shall transmit each payment monthly to the state treasurer to be deposited in the state treasury to the credit of the general fund.

§ 22. Amendment.) Section 57-39-23 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-39-23. Payment of Refund.) Wherever by any provisions of this chapter a refund is authorized, the commissioner shall certify the amount of the refund, the reason therefor and the name of the payee to the department of accounts and purchases, who shall thereupon draw a warrant on the general fund in the amount specified payable to the named payee.

§ 23. Amendment.) Section 57-39-24 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-39-24. Allocation of Revenue.) All moneys collected and received under this chapter shall be paid into the state treasury and shall be credited by the state treasurer to the general fund.

§ 24. Transfer of Existing Balances.) All balances remaining in the retail sales tax fund, the state equalization fund, and the public welfare fund on the effective date of this Act shall be transferred by the state treasurer to the general fund. Any existing obligations of such funds on the effective date of this Act shall be paid out of the general fund.

Approved March 8, 1963.

CHAPTER 201

S. B. No. 54

(Baeverstad, Luick, Becker, Reichert)
(From LRC Study)

SPECIAL FUNDS TRANSFER

AN ACT

To amend and reenact sections 6-07-46, 12-48-11, 12-48-13, 12-49-04, 20-16-03, 36-01-29, and 36-05-10 of the North Dakota Century Code, relating to the disposition of various special funds and transferring the balances therein to the general fund, providing for disposition of Taylor Grazing Act Fund, and providing for the transfer of the Korean bonus administration fund to the sinking fund thereof; and to repeal sections 6-07-47 and 6-07-49 of the North Dakota Century Code, relating to the investment and disposition of moneys by the state examiner.

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

§ 1. **Amendment.)** Section 6-07-46 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-07-46. Disposition of Unclaimed Dividends or Other Moneys Delivered to State Examiner.) Any unclaimed dividend or other moneys delivered to the state examiner by the receiver of an insolvent bank pursuant to the provisions of section 6-07-38 shall be paid to the state treasurer who shall credit such payments to the general fund of this state. Any unclaimed dividends or other moneys credited to such fund may thereafter be paid to the lawful owner thereof, his heirs, executors, administrators, or assigns when proven to the satisfaction of the state examiner that he is legally entitled thereto. Such payment shall be made by a warrant drawn by the department of accounts and purchases and issued in payment of a claim voucher certified to by the claimant and approved by the state examiner. The moneys required for the payment of such claims are hereby appropriated out of the general fund.

§ 2. **Amendment.)** Section 12-48-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-48-11. Sale of Coffins—Price—Use of Proceeds.) The board of administration shall sell the coffins at wholesale or retail. The wholesale price shall be ten percent above the cost of manufacture, and the retail price shall be twenty percent above the cost of manufacture. Coffins purchased by

the state or by any county or municipality for the burial of paupers shall be sold at the cost of manufacture. All moneys derived from the sale of coffins shall be deposited in the general fund.

§ 3. **Amendment.)** Section 12-48-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-48-13. Use of Receipts from Sale of License Plates and Road Signs.) The receipts from the sale of the license plates and road signs manufactured at the penitentiary shall be deposited with the state treasurer, to the credit of the general fund.

§ 4. **Amendment.)** Section 12-49-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-49-04. Warden Accounting Officer—Duty—Penalty for Neglect of Duty.) The warden of the penitentiary shall keep a true and accurate account of all notes, evidences of indebtedness, and money received by him for the sale of the product of the twine and cordage plant. At the end of each month he shall turn over all money so received to the state treasurer and take his receipt therefor. He at the same time shall furnish the state auditor with a statement showing the amount of money received and the source from which it came. All sums placed in the hands of the state treasurer, arising from sales of the product of said plant, shall be placed to the credit of the general fund. The warden shall be subject to a fine of not less than one hundred dollars nor more than five hundred dollars for failure to carry out the provisions of this section.

§ 5. **Amendment.)** Section 20-16-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

20-16-03. Disposition of Proceeds of Furs, Skins, and Specimens Taken.) All furs, skins, and specimens taken by hunters and trappers whose salaries are paid out of funds appropriated to carry out the provisions of this chapter shall be disposed of in such manner as the commissioner of agriculture and labor shall determine to be in the best interests of the state. If such furs, skins, or specimens are sold, the net proceeds of such sales shall be deposited with the treasurer to be credited to the general fund.

§ 6. **Amendment.)** Section 36-01-29 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-01-29. Quarantined Livestock Feedlots — Establishment by Regulations of the State Livestock Sanitary Board and

Licensing Thereof.) The livestock sanitary board is authorized to promulgate regulations for the establishment and maintenance by any person of a quarantined livestock feedlot. Any person may, on compliance with such regulations, obtain a license for said feedlot upon filing an application with the state livestock sanitary board and upon the payment of an annual fee of fifty dollars to the state livestock sanitary board. Such fee shall be deposited with the state treasurer in the general fund out of which upon legislative appropriation the veterinarian inspector's fees and cost of administration, shall be paid. When so licensed and upon compliance with the regulations for the maintenance of the quarantined livestock feedlot, such licensee shall be authorized to confine and feed, in the feedlot, without vaccination or tests for brucellosis and such other diseases as the livestock sanitary board may specify, cattle to be sold only for slaughter or at public market or to another quarantined feedlot.

§ 7. Amendment.) Section 36-05-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-05-10. Inspection of Livestock—Fees and Regulations Governing.) When an animal enters a livestock auction market and before it is offered for sale, it shall be inspected for health by a state-employed veterinarian and in the case of cattle for brands by a trained brand inspector, acting under rules promulgated by the North Dakota stockmen's association and the livestock sanitary board. Veterinary inspection shall include all livestock, whether it is to be moved interstate or intrastate. The fees for such inbound inspection shall be sent to the livestock sanitary board by the auction market company and shall be deposited with the state treasurer in the general fund. Costs of veterinary inspector's fees and costs of administration shall be paid within the limits of legislative appropriations from the general fund. The fees for such inspection and the manner of paying the veterinarian shall be established by rules and regulations adopted by the livestock sanitary board and such fees shall be set in accordance with the costs of providing inspection service for the purpose of conforming with the federal laws and regulations governing interstate movement of cattle.

§ 8. Taylor Grazing Act Funds—Disposition.) Payments to the state from the federal government under the provisions of 43 United States Code 3151 (the Taylor Grazing Act), shall be apportioned by the state treasurer among the counties in the state in the proportion that the number of acres of Taylor Grazing Act land in each county bears to the total amount of such land in the state. Such distributions shall be credited

to the county equalization fund of the county receiving them and expended for the support of the common schools.

§ 9. Transfer of Korean Bonus Administration Fund.) The unexpended balance in the Korean bonus administration fund is hereby transferred to the Korean bonus sinking fund.

§ 10. Transfer of Funds.) All existing balances in the state treasury in the game and fish bounty fund, closed bank fund, guarantee fund, nonresident heirs fund, penitentiary miscellaneous earnings fund, twine plant operating fund, penitentiary tag and sign plant fund, predatory animal control fund, quarantine livestock feedlot fund, livestock auction market fund, on the effective date of this Act shall be transferred by the state treasurer to the general fund. Any existing obligations of such funds on the effective date of this Act shall be paid out of the general fund.

§ 11. Repeal.) Sections 6-07-47 and 6-07-49 of the North Dakota Century Code are hereby repealed.

Approved March 4, 1963.

CHAPTER 202

S. B. No. 260

(Brooks)

MUNICIPAL BOND INTEREST RATE

AN ACT

To amend and reenact section 21-03-08 of the North Dakota Century Code, relating to the maximum interest rate, maturity and denominations of general obligation bonds of municipalities, and declaring an emergency.

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

§ 1. Amendment.) Section 21-03-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-03-08. Maximum Interest Rate, Maturity, and Denominations.) No bonds issued under the provisions of this chapter shall bear interest at a rate higher than six percent per annum, payable semiannually, nor shall the rate thereof exceed the maximum rate specified in the initial resolution for the issuance of such bonds. No bonds issued under the provisions of this chapter shall run for a longer period than twenty years from their date. Bonds issued under the provisions of this chapter shall be in denominations of one hundred dollars each, or some multiple thereof. Such bonds shall not bear date earlier than the date of the election authorizing their

issuance, if such election is required, nor earlier than the date of the adoption of the resolution of the governing body determining to issue bonds for which no election is required.

§ 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 21, 1963.

CHAPTER 203

H. B. No. 788
(Link, Jacobson)

SCHOOL BUILDING BOND ISSUES

AN ACT

To create and enact section 21-03-10.1 of the North Dakota Century Code and to amend and reenact section 57-15-16 and subsection 1 of section 57-15-17 of the North Dakota Century Code, relating to the levying of taxes and the issuance of bonds by a school district for the purpose of building or improving schools.

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

§ 1.) Section 21-03-10.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

21-03-10.1. School Districts—Use of Bond Funds.)

1. The initial resolution or petition providing for the issuance of bonds, whether adopted by a majority vote of the school board of a school district or proposed by the voters of the school district as provided for in section 21-03-10, may, within the discretion of those proposing such initial resolution or petition, provide for a specific school plan for which the proceeds of the bond issue shall be exclusively used except as otherwise provided in section 21-03-42. Such plan shall designate the general area to be served by expenditure of bond proceeds for school purposes. The area intended to be served shall be described in the plan, but need not be described in the bond election ballot.

2. The bond election ballot form authorized in section 21-03-13 shall be sufficient. After approval of the initial resolution by the number of electors required by section 21-03-07, the proceeds of the bond issue shall be used only for the purpose and in the manner designated by the school plan except as herein provided.

3. After approval of the bond issue, no change shall be made in the purpose of expenditure of the bond proceeds

except that, upon a favorable vote of sixty percent of the electors residing in any specific area intended to be served as provided in subsection 1 of this section, material changes may be made in such plan as it affects said area to the extent such changes do not conflict with contractual obligations incurred.

§ 2. **Amendment.**) Section 57-15-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-16. Tax Levy for Building Fund in School Districts.)

1. The governing body of any school district shall levy taxes annually for a school building fund, not in excess of ten mills, which levy shall be in addition to and not restricted by the levy limitations prescribed by law, when authorized to do so by sixty percent of the electors voting upon the question at a regular or special election in any school district. The governing body of such school district may create such building fund by appropriating and setting up in its budget for such an amount not in excess of twenty percent of the current annual appropriation for all other purposes combined, exclusive of appropriations to pay interest and principal of the bonded debt, and not in excess of the limitations prescribed by law. In all cases where a portion or all of the proceeds of such levy have been allocated by contract to the payment of rentals upon contracts with the state school construction board, such levy shall be made annually by the governing body of the school district until the full amount of all such obligations is fully paid. Upon the completion of all payments to the state school construction fund, such levy may be discontinued at the discretion of the governing body of the school district, or, upon petition of one-third of the qualified electors of such district, the question of discontinuance of the levy shall be submitted to the electors of the school district at any regular or special election and, upon a favorable vote of sixty percent of the electors voting, such levy shall be discontinued. Any school district, executing a contract or lease with the state school construction board, which contract or lease requires the maintenance of the ten mill levy provided in this section, shall immediately file a certified copy of such contract or lease with the county auditor or auditors of the county or counties in which such school district is located. The county auditor or auditors shall register such contract or lease in the bond register in substantially the manner provided in section 21-03-23. Upon the filing of such contract or lease with the county auditor or auditors, the school district shall be without power to discontinue such levy and such levy shall automatically be included in the tax levy of such school district from year to year by the county auditor or auditors until

a sufficient sum of money has been collected to pay to the state treasurer for the retirement of all obligations of such school district with the state school construction board.

2. The school board of any school district, in levying taxes for a school building fund as provided for in subsection 1 of this section, may in its discretion submit a specific plan for which such fund shall be used. The plan shall designate the general area intended to be served by use of such fund. The area intended to be served shall be described in the plan but need not be described in the building fund ballot. After approval of the levy and the plan no change shall be made in the purpose of expenditure of the building fund except that upon a favorable vote of sixty percent of the electors residing in any specific area intended to be served, material changes may be made in such plan as it affects such area to the extent such changes do not conflict with contractual obligations incurred. The provisions of this section and of subsection 1 of section 57-15-17 in regard to the purpose for which the building fund may be expended shall not apply to expenditures for major repairs.

§ 3. Amendment.) Subsection 1 of section 57-15-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. All revenue accruing from appropriations or tax levies for a school building fund together with such amounts as may be realized for building purposes from all other sources, shall be placed in a separate fund known as a school building fund, and shall be deposited, held, or invested in the same manner as the sinking funds of such school district or in the purchase of shares or securities of federal savings and loan associations or state chartered building and loan associations within the limits of federal insurance. Such funds shall be used solely and exclusively for the purpose of erecting new school buildings, or additions to old school buildings, or major repairs of existing buildings, or the payment of rentals upon contracts with the state school construction board, or within the limitations of school plans as provided in subsection 2 of section 57-15-16, and shall be paid out by the custodian thereof only upon order of the school board, signed by the president and the clerk of said school district, and such order must recite upon its face the purpose for which such payment is made;

Approved March 13, 1963.

CHAPTER 204

H. B. No. 736

(Aamoth, Baldwin, Fitch, Leahy, Stockman, Paulsen, Bergman)

1963 BOND VALIDATING ACT

AN ACT

To amend and reenact section 21-09-01 of the North Dakota Century Code Supplement, changing the title of "The 1961 Bond Validating Act" to "The 1963 Bond Validating Act" and to create and enact section 21-09-05 of the North Dakota Century Code, relating to the application of chapter 21-09 of the North Dakota Century Code to bonds issued prior to July 1, 1963.

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

§ 1. Amendment.) Section 21-09-01 of the North Dakota Century Code Supplement is hereby amended and reenacted to read as follows:

21-09-01. Citation.) This chapter may be cited as "The 1963 Bond Validating Act".

§ 2.) Section 21-09-05 of the North Dakota Century Code is hereby created and enacted to read as follows:

21-09-05. Application of Chapter.) The provisions of chapter 21-09 relating to the validation of bonds shall be applicable to all bonds issued by any public body prior to July 1, 1963.

Approved March 2, 1963.

CHAPTER 205

S. B. No. 195
(Hernett, Reichert, Trenbeath)

STATE INVESTMENT BOARD

AN ACT

To create and enact chapter 21-10 of the North Dakota Century Code, relating to the investment of public funds, creation of a state investment board, appointment of a director, types of legal investments, providing a penalty, and to amend and reenact sections 15-39-26, 26-23-03, 26-24-07, 54-27-16, and 65-04-31 of the North Dakota Century Code, relating to the investment of public funds.

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

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

Chapter 21-10

STATE INVESTMENT BOARD

21-10-01. State Investment Board—Membership—Terms—Removal.) The North Dakota state investment board shall consist of the governor, the state treasurer, the state land commissioner, and the chairman of the workmen's compensation bureau, and the state insurance commissioner.

21-10-02. Board—Powers and Duties.) The board shall be charged with the investment of the funds enumerated in section 21-10-06. It shall approve general types of securities for investment by these funds and set policies and procedures regulating securities transactions on behalf of the various funds. Representatives of the funds enumerated in section 21-10-06 may make recommendations to the board in regard to investments. The board or its designated agents shall be custodian of securities purchased on behalf of funds under the management of the board. The manager of the Bank of North Dakota shall be the investment director. Existing departmental facilities for making traditional investments within the state shall continue to function subject however to supervision and management of the board.

21-10-03. Cooperation with Bank of North Dakota.) Activities of the board and its employees shall be coordinated with the Bank of North Dakota to the maximum extent practicable.

21-10-04. Board—Meetings—Quorum—Compensation.) The state investment board shall select one of its members to serve as chairman, and shall meet at the call of the director

or upon written notice signed by two members of the board. Such meetings shall be held not less than four times per year. Three members of the board shall constitute a quorum for the transaction of business. The investment director shall serve as secretary of the board.

21-10-05. Director—Powers and Duties.) Subject to the limitations contained in the law or the policymaking regulations or resolutions promulgated by the board, the investment director shall have the power to make purchases, sales, exchanges, investments, and reinvestments of the funds under the management of the board. This section shall constitute a continuing appropriation of all moneys required for the making of investments of funds under the management of the board. The director shall see that moneys invested are at all times handled in the best interests of the state. Securities or investments may be sold or exchanged for other securities or investments. No sale or exchange shall be at a price less than the going market price at the time the securities or investments are sold or exchanged.

The investment director shall formulate and recommend to the investment board for approval, investment regulations or resolutions pertaining to the kind or nature of investments and limitations, conditions, and restrictions upon the methods, practices or procedures for investment, reinvestment, purchase, sale, or exchange transactions which should govern the investment of funds under this chapter.

21-10-06. Funds Under Management of Board—Accounts.) The board shall be charged with the investment of the following funds:

1. State bonding fund;
2. Teachers' insurance and retirement fund;
3. State fire and tornado fund;
4. Workmen's compensation fund; and
5. Highway patrolmen's retirement fund.

Separate accounts shall be maintained for each of the above funds and the moneys or securities of the individual funds shall not be commingled. However, when it is deemed advantageous in the purchase, sale, or exchange of securities, securities belonging to one or more of the funds or the Bank of North Dakota may be purchased, sold, or exchanged as part of a single transaction. In the event of such sale, the respective funds shall immediately be credited with their proportionate share of the proceeds. In the event of such purchase or exchange, title to the securities shall be taken in the name of the individual funds, proportionate to their share of the total purchase price.

The board of university and school lands shall consult with the state investment board or the director thereof on investment policies, and the board of university and school lands may delegate authority to the state investment board or the investment director to make such purchases, sales, or exchanges on its behalf.

21-10-07. Legal Investments.) The following types of securities shall be legal investments for funds, the investment of which is under the supervision of the board:

1. Securities which are a direct obligation of the treasury of the United States or of an instrumentality thereof;
2. Bonds or certificates of indebtedness of the state of North Dakota;
3. General obligation bonds of any other state;
4. Bonds, certificates of indebtedness, or warrants of any political subdivision of the state of North Dakota which constitute the general or contingent general obligations of the issuing tax authority, or revenue bonds of a political subdivision issued for public utility purposes or under the authority of the Industrial Development Act contained in chapter 40-57;
5. Loans and mortgage investments, insured or guaranteed in any manner, wholly or in part, or for which a commitment to so insure or guarantee has been issued by the United States or any instrumentality or agency thereof; or other investments that are issued by or fully insured or guaranteed by the United States or any instrumentality or agency thereof or the state of North Dakota or any instrumentality or agency thereof;
6. Bank of North Dakota certificates of deposit;
7. Building and loan association certificates of North Dakota building and loan associations, to the extent that such certificates are fully insured or guaranteed by the United States or an instrumentality or agency thereof;
8. Short term commercial and finance company paper traded on a national basis and issued by a corporation having a record of no default of obligations during the ten years preceding such investment and whose net income available for fixed charges for a period of five fiscal years immediately preceding such investment and during the last year of such period, shall have averaged per year not less than one and one-half times its average annual fixed charges applicable to such period;
9. Bonds, notes or debentures of any corporation duly incorporated under the laws of any state of the United

States rated as "A" or higher by a nationally recognized rating service approved by the board;

10. Non-rated bonds, notes, or debentures of any corporation duly incorporated under the laws of any state of the United States and whose principal business operations are carried on within the state of North Dakota, having a record of no default of obligations during the ten years preceding such investment and whose net income available for fixed charges for a period of five fiscal years immediately preceding such investment and during the last year of such period, shall have averaged per year not less than one and one-half times its average annual fixed charges applicable to such period.

As used in this section the term "net income" shall mean income after deducting operating and maintenance expenses, all taxes, depreciation and depletion, but excluding extraordinary nonrecurring items of income and expense.

The term "fixed charges" shall include interest on funded and unfunded debt, amortization of debt discount and expense, and rentals for leased property.

21-10-08. Reserves—Percentage Limitations.) In order to preserve the liquidity of the funds to meet claims and liabilities as they are incurred, the following reserve requirements shall be maintained by each of the funds enumerated in section 21-10-06:

1. A primary reserve of from four to six percent of the assets of each fund in the form of cash or Bank of North Dakota certificates of deposit.
2. A secondary reserve of from twelve to sixteen percent of the assets of each fund in the form of short term United States government securities maturing in one year or less or short term commercial and finance company paper.

The reserve requirements of this section shall not apply to the permanent funds of the common schools and institutions. The board may authorize temporary deviations from these reserve requirements when exceptional circumstances justify.

Not more than fifty percent of the assets of any fund shall be invested in securities authorized by subsections 8, 9, and 10 of section 21-10-07.

21-10-09. Personal Profit Prohibited—Penalty.) No member, officer, or employee of the state investment board shall accept any gift, commission, or compensation, other than that authorized by this chapter, for services performed under the

provisions of this chapter nor profit in any manner from transactions on behalf of the funds. 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 more than one thousand dollars or by imprisonment for a term of not more than one year or by both such fine and imprisonment.

21-10-10. Cost of Operation of Board.) The biennial costs of operation of the board and its agents in carrying out the provisions of this chapter shall be estimated by the board and prorated among the various funds, the investment of which is under the supervision of the board, in proportion to the services rendered for such funds. Such estimates shall be submitted to the state budget board and appropriations for the operations of the investment board shall be made from the respective funds in accordance with such proration estimates. The proportion allocated for services rendered to funds under the control of the board of university and school lands shall be appropriated from the general fund.

§ 2. Amendment.) Section 15-39-26 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

***15-39-26. Investment of Moneys in Fund.)** Investment of the fund shall be under the supervision of the state investment board in accordance with chapter 21-10.

§ 3. Amendment.) Section 26-23-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-23-03. Investment of Fund.) Investment of the fund shall be under the supervision of the state investment board in accordance with chapter 21-10.

§ 4. Amendment.) Section 26-24-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-24-07. Investment of Fund.) Investment of the fund shall be under the supervision of the state investment board in accordance with chapter 21-10.

§ 5. Amendment.) Section 54-27-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-27-16. Permission of Industrial Commission Necessary for Investment of Public Funds.) No officer, nor the head of any board, bureau, commission, institution, or industry of the state, except the Bank of North Dakota, shall buy, sell, ex-

***Note:** Section 15-39-26 was also amended by chapter 161 of the 1963 Session Laws.

change, or in any manner acquire or dispose of any stocks, bonds, certificates of indebtedness, notes, mortgages, or other evidence of debt, in which any of the public funds of said officer, board, bureau, commission, institution, department, or industry are or may be invested, without first having obtained permission from the industrial commission of the state. Such permission shall be granted by a resolution duly adopted. The provisions of this section shall not apply to loans and investments made by the board of university and school lands or by the state investment board on behalf of the funds enumerated in section 21-10-06.

§ 6. Amendment.) Section 65-04-31 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

***65-04-31. Investment of Fund.)** Investment of the fund shall be under the supervision of the state investment board in accordance with chapter 21-10.

Approved March 21, 1963.

CHAPTER 206

S. B. No. 343
(Longmire)

NATURAL RESOURCES DEVELOPMENT BOND ISSUE

AN ACT

To implement the provisions of the initiated constitutional amendment approved at the general election of November 6, 1962, authorizing the state of North Dakota to issue its bonds and to use the proceeds thereof to make loans to privately or cooperatively owned enterprises for facilities to convert North Dakota natural resources into low cost power and to generate and transmit such low cost power; providing for the filing, processing and evaluation of loan applications by the economic development commission, the setting of investigation and inspection fees and the appropriation and expenditure thereof, and the approval of loan applications by the economic development commission; for the appropriation of funds to the state industrial commission for disbursement in the making of such loans, the issuance of bonds by the industrial commission as agent of the state, and the security and tax levy and use of other funds for the payment of state bonds; for the investment of sinking fund moneys and bond proceeds; and for the limitations of actions questioning the validity of bonds.

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

§ 1. Declaration and Finding of Public Purpose.) The legislative assembly of the state of North Dakota hereby declares and finds that it is and has been its purpose in preparing and

***Note:** Section 65-04-31 was also amended by chapter 426 of the 1963 Session Laws.

adopting the provisions of this Act to promote the economic growth of the state, the development of its natural resources, and the prosperity and welfare of its people, by providing a source of low cost power in the state which will aid the establishment of additional industrial plants and activities within North Dakota, increasing production of wealth and the amount of employment, particularly during those seasons when employment in farming and ranching is slack and preventing a loss of population and promoting an increase in growth of population.

§ 2. Application for Loan—Form—Contents—Preference of Applications.) Any privately or cooperatively owned enterprise for the purpose of securing a loan from this state for purposes of planning, constructing, acquiring, equipping, improving, or extending facilities for the conversion of North Dakota's natural resources into low cost power and the generation and transmission of such power, and the acquisition of real and personal property and water and mineral rights needed for such facilities, or any of such purposes, may file an application with the North Dakota economic development commission. Such application shall be in such form as may be required by the economic development commission and shall be accompanied by a complete and fully detailed outline and description of the applicant's plan of operation. In the consideration of applications the economic development commission shall consider the following factors:

1. Preference shall be given to applicants with the following qualifications:

- a. Applicants who are experienced in the generation or transmission of power, and who at the time of application have access to alternate markets for the sale of such power.
- b. Applicants who are residents of North Dakota, or private or cooperative enterprises incorporated under the laws of North Dakota and having their headquarters in the state, whether or not a nonresident person or corporation owns part or all of the stock of the applicant or is engaged in a partnership or joint enterprise with the applicant.

2. The provisions of subsection 1 shall not prohibit the commission from approving loans to applicants not possessing the qualifications therein described, if in the judgment of the commission such approval would better carry out the objectives of this chapter as stated in section 1.

3. Each application shall include information for the purpose of showing to the commission and shall be approved only if the commission shall determine:

- a. That the facilities proposed to be financed by the loan will result in significant additional industrial or other economic activity in North Dakota which would not occur in the absence of a state loan.
 - b. That the cost of power furnished by the facilities financed by the loan will be significantly lower than it would be without a loan made under this chapter.
 - c. That the facilities financed will furnish power at the lowest possible cost to stimulate industrial development, benefit the general public, and expand the use of North Dakota fuel resources.
4. In considering applications the economic development commission shall have authority to establish additional reasonable criteria with respect to the financial qualification of individuals and organizations requesting loans.

§ 3. Processing of Application — Fee — Purpose.) The economic development commission shall process each application and if it determines the applicant is eligible for the loan and has complied with all requirements, it shall request an application fee of not more than fifty thousand dollars. Such fee shall be deposited in a special and separate fund in the state treasury and shall be expended by the economic development commission for purposes of investigating the applicant and evaluating the technical and economic feasibility of the plans and specifications as submitted by the applicant. The economic development commission may consult or contract with any person or private, state, or federal department, agency, or entity, for purposes of such investigation or evaluation. All departments, agencies, institutions, and officials of this state and its political subdivisions shall provide to the economic development commission such aid, information, and assistance as it may request in regard to any matter relative to the applicant or such applicant's plans and specifications. The economic development commission shall be authorized to conduct any private or public hearing it may deem necessary in the course of such investigation or evaluation. Any unexpended portion of the funds received as an application fee shall be refunded to the applicant after the payment of all costs of investigation and evaluation of the application. There is hereby appropriated from each application fee such funds as may be necessary to pay all costs of investigation and evaluation and pay refunds as provided in this section.

§ 4. Approval or Rejection of Application.) Upon completion of all investigations and evaluations of any matter relative to the applicant or the submitted application and plan, the economic development commission shall either reject the application as submitted, approve the application as sub-

mitted, or offer to approve the application if modified in accordance with any recommendation made by the economic development commission as a result of any such investigation or evaluation. If the applicant fails or refuses to agree to such modifications the application shall be rejected.

§ 5. Approved Application Filed with Industrial Commission and Legislative Research Committee.) Upon approval of the application, as submitted or modified, the economic development commission shall file such application, along with its report and recommendations, received by it as a result of any investigation and evaluation, with the state industrial commission and with the legislative research committee. The legislative research committee shall prepare and submit any necessary legislation for the appropriation of additional funds or the authorization of the issuance of bonds at the following session of the legislative assembly, or at a special session if called in accordance with the Constitution.

§ 6. Disbursements of Loan—Inspection Fee.) If the industrial commission finds that the approved loan application has been filed and processed as required by this Act and the proposed loan agreement is in proper legal form and the amount to be disbursed thereunder, with other previous disbursements, does not exceed the funds appropriated for that purpose, it shall authorize the execution of the loan agreement with the applicant by the director of economic development, on behalf of the state. Prior to the disbursement of any funds pursuant to such loan agreement, the applicant shall deliver to the director of economic development a supervision fee in such amount as may be specified in the loan agreement, which fee shall be deposited in a special fund in the state treasury. Such fee shall be expended by the economic development commission for the purpose of periodic inspection of the construction of such power generation or transmission facilities, and disbursements to the borrower under such loan agreement shall be made only upon certification by the director of economic development or a person appointed by him that such construction is being carried on in accordance with the loan agreement and that such loan funds are due the borrower under such agreement. Upon the completion of the construction of such facilities, any unexpended balance of such inspection fee shall be refunded to the borrower. There is hereby appropriated from each such inspection fee such funds as may be necessary to provide for such inspections and refunds as provided in this section.

§ 7. Appropriation of Funds.) The sum of fifty thousand dollars is hereby appropriated as a continuing appropriation to the state industrial commission, out of the proceeds of

bonds of the state which may be issued by the industrial commission under the provisions of this Act, for the purpose of making loans of the nature herein described. No loan shall be disbursed at any time in an amount which, with all previous disbursements of loans under this Act, exceeds the sum herein appropriated plus any additional sums hereafter appropriated by the legislature for that purpose, whether out of the proceeds of bonds or otherwise.

§ 8. General Obligation State of North Dakota Bonds, Natural Resources Power Development Series — Bond Purpose.)

An issue of general obligation bonds of the state, to be designated as State of North Dakota Bonds, Natural Resources Power Development Series, in an aggregate amount not to exceed at any time the amount appropriated in section 7 plus any additional sums hereafter appropriated by the legislature for the making of loans under this Act, is hereby authorized for the sole purpose of providing funds to be loaned in accordance with loan agreements made and executed as herein provided, and under the conditions, in the manner and for the purpose stated in the initiated constitutional amendment approved by the people at the general election held November 6, 1962, authorizing the state of North Dakota to issue its general obligation bonds and to use the proceeds thereof to make loans to privately or cooperatively owned enterprises to plan, construct, acquire, equip, improve, and extend facilities for converting natural resources into power and generating and transmitting such power, and to acquire real and personal property and water and mineral rights needed for such facilities.

§ 9. Preparation of Bonds.) The preparation, handling, issuance, sale, and delivery of bonds under this Act shall be supervised and controlled by the state industrial commission, which shall issue and sell them in such manner, in such number of series, at such times, in such form and denominations, bearing interest at such rate or rates, maturing on such dates, either without option of prior redemption or subject to prepayment upon such notice and at such times and prices, payable at such bank or banks, within or without the state, with such provisions for registration, conversion and exchange and for the issuance of notes in anticipation of the sale and delivery of definitive bonds, and in accordance with such further regulations as the commission shall determine subject to the limitations contained in this Act. The bonds of each series shall mature in order of serial numbers, and the first installment of principal thereof shall fall due not more than three years and the last installment not more than forty years from the date of the bonds, and no installment of principal of the series maturing in any year shall be less than one-third

of the amount of the largest installment maturing in any subsequent year after two years from the issue date, except that the amount of such installments of principal may be fixed in such manner that the increase thereof from year to year approximately equals the decrease from year to year in the interest on the bonds remaining unpaid. The bonds shall be executed by the governor and by the state treasurer under the great seal of the state of North Dakota and shall be attested by the secretary of state, and any coupons attached thereto shall be executed by the signatures of the same officers. The signatures of all officers on the coupons and the seal and the signatures of all but one officer on the face of each bond may be printed, lithographed, stamped, or engraved thereon. The state auditor and secretary of state shall also endorse and sign on each bond a certificate showing that the bond is issued pursuant to law and is within the debt limit. Interest on each bond shall cease at maturity, or on a prior date upon which the bond shall have been called for prepayment and redemption in accordance with its terms, unless the holder shall then present the same for payment and payment is refused. The industrial commission shall have power also to issue bonds of the state to refund bonds issued hereunder at any time on such terms and under such conditions as to it may seem proper, and as are consistent with the provisions of the bonds refunded or are consented to by the holders of such bonds.

§ 10. Sale and Delivery of Bonds — Deposit of Proceeds.)

The industrial commission shall act as agent of the state for the negotiation, sale, and delivery of all bonds issued under this Act. Such bonds shall be sold from time to time for cash at not less than par and accrued interest to the best advantage of the state. In offering such bonds for sale the industrial commission shall reserve the right to reject any or all bids therefor. All of the proceeds of the bonds shall be received by the industrial commission and by it placed in a separate fund in the state treasury to be used only for the purpose for which such bonds are issued.

§ 11. Bonds Tax Exempt.) All bonds issued under the provisions of this Act and interest thereon shall be exempt from taxation.

§ 12. Bonds a General Obligation of the State of North Dakota.) Upon receipt of payment therefor, the industrial commission shall deliver to each purchaser of bonds issued under this Act the bonds purchased by him, and upon delivery of such bonds the full faith and credit and unlimited taxing resources of the state of North Dakota shall stand pledged for the punctual full payment of each and all of such bonds and

the interest thereon to the lawful holder and owner thereof as bonds and coupons become due and are presented for payment.

§ 13. Tax Levy.) In each year commencing with the year this Act takes effect and ending after all bonds issued under this Act have been paid or funds are on hand sufficient for their payment, the industrial commission shall prepare a statement of the condition of the sinking fund for bonds issued hereunder and shall determine the annual tax necessary to pay the interest and principal of such bonds as such principal and interest become due in the following year and to and including July first in the year thereafter. The annual tax so determined shall be certified by the industrial commission to the state board of equalization in ample time to permit the levy thereof for each year, and the board of equalization shall make an annual levy of property taxes against all of the taxable property in the state of North Dakota in an aggregate amount not less than that certified to it by the industrial commission year by year. The unexpended balance on hand in the sinking fund for the bonds at the time of certifying such tax each year, whether such balance is derived from taxes levied hereunder or from loan repayments or other revenues deposited in the sinking fund, shall be taken into account by the industrial commission, and the tax certified under this section in such year may be reduced accordingly. There are hereby appropriated all funds required for the payment of interest and principal of all bonds issued and sold under this Act as such principal and interest become due, and this appropriation and the said taxes and other provisions for payment of said bonds and interest shall not be repealed or discontinued until the said bonds and interest shall have been paid.

§ 14. Sinking Fund.) The sinking fund for the payment of bonds issued under this Act, together with interest thereon, shall be established and maintained in the office of the state treasurer who shall be its official custodian and shall at all times maintain adequate books and records thereof. The state treasurer shall make reports of the condition of the sinking fund to the industrial commission on its request. All taxes levied and all sums appropriated and transferred for payment of such bonds and interest shall be deposited in the sinking fund and shall be disbursed by the state treasurer in payment of the bonds and interest thereon directly or through a paying agent to be designated by the industrial commission. All payments of principal and interest on loans made from the proceeds of such bonds and all other revenues received under the terms of the loan agreements pertaining thereto are hereby appropriated to and shall be deposited in the sinking

fund as received, with the exception of such loan payments and other revenues as may under authority of any future act of the legislature be pledged by the state industrial commission to a special fund for the payment and security of revenue bonds, made payable solely from such loan payments and revenues. Loan payments and other revenues pledged pursuant to any such future authorization shall be deposited as received in a special fund or funds for the payment and security of revenue bonds according to the terms of any such bonds, whether or not such payments or revenues are received under a loan agreement respecting facilities financed from the proceeds of general obligation bonds. On request of the industrial commission, the state treasurer shall make good or forestall any existing or threatened deficit in such sinking funds out of any available moneys of the state in his custody, provided that all moneys so used shall be restored.

§ 15. Transfer of Balance.) Upon the retirement of all general obligation bonds issued hereunder and the interest thereon any unexpended balance in the sinking fund created by this Act shall be transferred by the state treasurer to the general fund.

§ 16. Certificates of Indebtedness Against Uncollected Taxes.) If at any time the balance in the sinking fund for an issue of bonds under this Act is not sufficient to pay maturing bonds and interest punctually when due, or when the sinking fund is threatened with a deficit, the state treasurer may borrow sufficient funds upon certificates of indebtedness of the state of North Dakota to cover payment of principal or interest or both so as to cure or forestall default. Such certificates may be issued in anticipation of collection of taxes, shall be signed by the governor and state treasurer, shall mature not more than three years from date of issue and shall bear interest at a rate to be determined by the industrial commission. They shall be retired from tax collections and shall be eligible for purchase by the state of North Dakota and its several agencies and departments and the trust funds thereof, except school trust funds.

§ 17. Investment of Funds.) The proceeds of bonds and moneys in the sinking fund for bonds issued under this Act shall be deposited in the Bank of North Dakota at interest or invested in general obligations of the United States government, as may be directed by the industrial commission.

§ 18. Protection of Purchaser.) The purchaser of bonds issued under this Act shall not be obliged to see to the application of the purchase price thereof but shall be protected fully in paying for such bonds by the receipt of the industrial

commission or of its agent delivering such bonds as herein provided.

§ 19. Limitation of Action.) No action shall be brought or maintained in any court of this state questioning the validity of any bonds issued under this Act or of any tax levied for such bonds unless such action shall have been commenced within thirty days after the adoption of the resolution of the industrial commission awarding sale of such bonds.

Approved March 18, 1963.

GUARANTY, INDEMNITY, AND SURETYSHIP

CHAPTER 207

H. B. No. 703

(Loder, Olson (Griggs))

GUARANTY OR SURETY, PUBLIC POLICY

AN ACT

To declare the public policy of this state that any contracts contrary to any of the provisions of sections 22-01-06.1 through 22-01-06.4 of the North Dakota Century Code, and any waivers of any of the provisions thereof, shall be void.

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

§ 1. Public Policy.) It is hereby declared to be the public policy of the state of North Dakota that any contracts contrary to the provisions of sections 22-01-06.1 through 22-01-06.4, inclusive, and any waiver of any of the provisions thereof shall be void.

Approved March 5, 1963.

HEALTH AND SAFETY

CHAPTER 208

S. B. No. 104
(Baker, Bopp, Lips)

STATE LABORATORIES' LICENSING

AN ACT

To create and enact section 23-09-20.1 and to amend and reenact section 19-08-02, subsection 4 of section 19-08-05, subsections 3 and 4 of section 23-09-01, subsection 8 of section 23-09-09, 23-09-17, subsection 1 of section 23-10-01, 23-10-05, and 23-10-09 of the North Dakota Century Code, relating to the licensing of hotels, boarding houses, trailer courts and beverages by the state laboratories department.

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

§ 1. **Amendment.)** Section 19-08-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-08-02. Beverage—Definition.) The term “beverage” as used in this chapter shall include intoxicating liquors, carbonated and noncarbonated soda water, ginger ale, root beer, aromatic flavors, cereal or malt beverages, apple cider, tomato juice, grape juice and other fruit juices, imitations or compounds of any of these, concentrated extracts and essences from which beverages are made, mineral or spring water sold under private label, and potable water sold by a private individual, firm, or corporation for household or culinary purposes.

§ 2. **Amendment.)** Subsection 4 of section 19-08-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- 4. Mineral and spring water, and potable water sold by a private individual, firm, or corporation for household or culinary purposes, each brand 20.00

§ 3. **Amendment.)** Subsections 3 and 4 of section 23-09-01 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

- 3. “Lodginghouse” includes every building or structure, or any part thereof, with accommodations for four or more persons, which is kept, used, maintained, or held

out to the public as a place where sleeping accommodations are furnished to regular roomers for one week or more;

4. "Boardinghouse" includes every building or structure, or any part thereof, with accommodations for four or more boarders, which is kept, used, maintained, advertised, or held out to the public as a place where food is furnished to regular boarders for periods of one week or more;

§ 4. Amendment.) Subsection 8 of section 23-09-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

8. **Cleaning Carpets.** If bedrooms in a hotel or lodginghouse are carpeted, the carpets shall be thoroughly cleaned at least once each year;

§ 5. Amendment.) Section 23-09-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-09-17. License Fees.) The following annual license fees shall be paid to the state laboratories department by proprietors of hotels, restaurants, boardinghouses, and lodginghouses:

1. For a restaurant or boardinghouse, five dollars;
2. For a hotel or lodginghouse containing at least four but not more than ten sleeping rooms, five dollars;
3. For a hotel or lodginghouse containing more than ten sleeping rooms and not more than twenty sleeping rooms, ten dollars;
4. For a hotel or lodginghouse containing more than twenty sleeping rooms and not more than fifty sleeping rooms, twenty dollars;
5. For a hotel or lodginghouse containing fifty-one sleeping rooms or more, forty dollars.

§ 6.) Section 23-09-20.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

23-09-20.1. Guest Record.) A record shall be kept in each hotel or lodginghouse in which every individual patronizing such hotel or lodginghouse shall write his or her name and address and the number of members in his or her party who will occupy a room or rooms therein.

§ 7. Amendment.) Subsection 1 of section 23-10-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. "Motor court" includes every plot of land equipped with buildings or structures, or any part thereof, kept, used,

maintained, advertised, or held out to the public as a place where sleeping accommodations, with or without cooking facilities, are furnished to the public for periods of less than one week and shall include only such establishments where buildings or structures have guest units opening to the outside, and where accommodations include parking space for at least one motor vehicle to each guest unit, and shall include establishments known as motels, cabins, camps or by whatever name the same may be called.

§ 8. **Amendment.)** Section 23-10-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-10-05. License Fees.) The following fees shall be charged for licenses to operate motor or trailer courts in this state:

1. For a motor court having at least four but not more than ten sleeping rooms, five dollars;
2. For a motor court having more than ten and not more than twenty sleeping rooms, ten dollars;
3. For a motor court having more than twenty and not more than fifty sleeping rooms, twenty dollars;
4. For a motor court having more than fifty sleeping rooms, forty dollars;
5. For a trailer court capable of accommodating at least two but not more than ten trailers, five dollars;
6. For a trailer court capable of accommodating more than ten but not more than twenty trailers, ten dollars;
7. For a trailer court capable of accommodating more than twenty but not more than fifty trailers, twenty dollars;
8. For a trailer court capable of accommodating more than fifty trailers, fifty dollars.

§ 9. **Amendment.)** Section 23-10-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-10-09. Guest Record.) A record shall be kept in each motor or trailer court in which every individual patronizing the court shall write his or her name and address and the number of members in his or her party.

Approved March 22, 1963.

CHAPTER 209

H. B. No. 782
(Fitch, Poling)

CEMETERY ORGANIZATIONS

AN ACT

Relating to the operation of cemeteries in the state of North Dakota, and funds for the perpetual care and maintenance thereof, and the sale of burial space therein, and providing penalties for the violation thereof.

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

§ 1. Applicability of Statute.) Any person, firm, corporation or other form of organization organized or engaging in the business under the laws of the state of North Dakota, or wheresoever organized and engaging in the business in the state of North Dakota, of the ownership, maintenance or operation of a cemetery, providing lots or other interment space therein for the remains of human bodies, except such organizations which are churches or religious or established fraternal societies, charitable associations or incorporated cities or towns or other political subdivisions of the state of North Dakota owning, maintaining or operating cemeteries, shall be subject to the provisions of this chapter.

§ 2. Definitions.) All such organizations subject to the provisions of this chapter shall be, for the purposes hereof, designated either as "perpetual care cemeteries" or "nonperpetual care cemeteries".

§ 3. Creation of Perpetual Care Fund.) Any such organization subject to the provisions of this chapter which is organized or commences business in the state of North Dakota and desires to operate as a perpetual care cemetery shall, before selling or disposing of any interment space or lots, establish a minimum perpetual care and maintenance guarantee fund of twenty-five thousand dollars in cash. However, organizations in operation on the effective date of this chapter may deposit an initial minimum sum of five thousand dollars, with the remaining twenty thousand dollars to be deposited within a period of five years from the date of the initial deposit. The perpetual care and maintenance guarantee fund shall be permanently set aside in trust to be administered under the jurisdiction of the district court of the county wherein the cemetery is located. The district court shall have jurisdiction over the approval of trustees, reports and accounting of trustees, amount of surety bond required, and

investment of funds as provided by chapter 59-04 North Dakota Century Code as amended relating to the administration of trust estates. Only the income from such fund shall be used for the care and maintenance of the cemetery for which it was established. All such organizations shall submit at least annually, to the district court, such reports as are required. The clerks of each of the district courts shall transmit copies of all reports, and rules and regulations enacted by the organization, to the state department of health and the state examiner.

To continue to operate as a perpetual care cemetery, any such organization shall set aside and deposit in the perpetual care fund not less than the following amounts for lots of interment space thereafter sold or disposed of:

1. A minimum of twenty percent of the gross selling price with a minimum of twenty dollars for each adult space, whichever is the greater.
2. A minimum of twenty percent of the gross selling price for each child's space with a minimum of five dollars for each space up to forty-two inches in length or ten dollars for each space up to sixty inches in length, whichever is the greater.
3. A minimum of twenty percent of the gross selling price with a minimum of one hundred dollars for each space or crypt in a mausoleum, whichever is the greater.
4. A minimum of twenty percent of the gross selling price with a minimum of ten dollars for each inurnment niche in a columbarium.
5. A minimum of twenty percent of the gross selling price with a minimum of one hundred dollars, whichever is the greater, for each interment space in crypt gardens or any other structure or device by whatever name, established or constructed wholly or partially above the natural surface of the ground, for the interment of any dead human body.

The initial perpetual care fund established for any cemetery shall remain in an irrevocable trust fund until such time as this fund has reached fifty thousand dollars. The amount in excess of the initial twenty-five thousand dollars may then be withdrawn at the rate of one thousand dollars for each additional two thousand dollars added to the fund. However, under special, unusual, or compelling circumstances and upon proper application to the district courts, said courts may in their discretion grant a modified schedule of withdrawals to be used only for perpetual care and maintenance purposes.

§ 4. Previously Existing Organizations.) Any such organization subject to the provisions of this chapter which was

organized and engaged in business prior to the effective date of this chapter shall be a perpetual care cemetery if it shall at all times subsequent to the effective date of this chapter comply with the requirements of a perpetual care cemetery as set forth in section three of this chapter.

§ 5. Nonperpetual Care Cemeteries.) All other organizations subject to the provisions of this chapter shall be nonperpetual care cemeteries.

Each nonperpetual care cemetery shall post in a conspicuous place in the office or offices where sales are conducted a legible sign stating: "This is a nonperpetual care cemetery." The lettering of this sign shall be of suitable size so it is easily read at a distance of fifty feet.

Each nonperpetual care cemetery shall also have printed or stamped at the head of all of its contracts, deeds, statements, letterheads and advertising material, the legend: "This is a nonperpetual care cemetery." and shall not sell any lot or interment space therein unless the purchaser thereof is informed in writing that the cemetery is a nonperpetual care cemetery.

§ 6. Nonperpetual Care Cemetery's Qualification as Perpetual Care Cemetery.) Any nonperpetual care cemetery after the effective date of this chapter may become a perpetual care cemetery by placing in the perpetual care trust fund twenty-five thousand dollars or five thousand dollars per acre of all property sold, whichever is the greater, and shall comply with the requirement for a perpetual care cemetery as provided in section three of this chapter.

§ 7. Unlawful Acts.) It shall be unlawful for any organization subject to the provisions of this chapter to pay or offer to pay to, or for any person, firm or corporation to receive directly or indirectly a commission or bonus or rebate or other things of value, for or in connection with the sale of any interment space, lot or part thereof, in any cemetery described in section one of this chapter. The provisions of this section shall not apply to an individual regularly employed and supervised by such organization.

§ 8. Unlawful Acts—Denial of Privilege of Interment Because of Race or Color.) It shall be unlawful for any organization subject to the provisions of this chapter to deny the privilege of interment of the remains of any deceased person in any cemetery described in section one of this chapter solely because of the race or color of such deceased person. Any contract, agreement, deed, covenant, restriction or charter provision at any time entered into, or bylaw, rule or regulation adopted or put in force, either subsequent or prior to the

effective date of this chapter, authorizing, permitting or requiring any organization subject to the provisions of this chapter to deny such privilege of interment because of race or color of such deceased person is hereby declared to be null and void and in conflict with the public policy of this state. No organization subject to the provisions of this chapter or any director, officer, agent, employee or trustee thereof or therefor, shall be liable for damages or other relief, or be subject to any action in any court otherwise having jurisdiction in the premises by reason of refusing to commit any act declared unlawful herein.

§ 9. Penalties.) Any person, firm or corporation violating any of the provisions of this chapter, shall, upon conviction, be punishable by a fine of not less than one hundred dollars nor more than one thousand dollars.

§ 10. Continuing Penalties.) Each day any person, firm or corporation violates any provision of this chapter, except the commission of any act declared unlawful in section eight of this chapter, shall be deemed to be a separate and distinct offense.

§ 11. Representations As To Speculative Investment Prohibited.) No organization subject to the provisions of this chapter nor any person representing it shall advertise or represent, in connection with the sale or attempted sale of any interment space, that the same is or will be a desirable speculative investment for resale purposes.

§ 12. Severability.) If any provision hereof or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

§ 13. Effect on Existing Cemetery Organizations—Enforcement.) The provisions of this chapter shall in no way affect existing statutes relating to the administration, regulation, or registration of all cemetery organizations. It shall be the duty of the state's attorney or the attorney general to enforce the provisions of this chapter.

Approved March 13, 1963.

CHAPTER 210

H. B. No. 768
(Wagner, Johnston)

CANCER CURES OR TREATMENTS

AN ACT

Relating to the treatment or cure of cancer, and providing a penalty.

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

§ 1. Definition.) For the purposes of this Act, "cancer" means all malignant neoplasms regardless of the tissue of origin, including malignant lymphoma and leukemia.

§ 2. Prohibition Against Prescription, Treatment, Sale or Distribution of Cancer Cure.) No person other than a licensed physician shall in any manner hold himself out to any other person as being able to prescribe treatment for, or cure the disease of cancer, nor in any manner undertake to treat, or prescribe for the treatment of the disease of cancer. No person shall sell or offer to sell, or give away or offer to give away, except upon the prescription of a licensed physician, any drug, medicine, compound, nostrum or device which is represented by the manufacturer or seller thereof to have curative powers when used in the treatment of the disease of cancer.

§ 3. Enforcement by Health Officer—Seizure—Inspection—Injunction.) It shall be the duty of the state health officer to enforce the provisions of this Act, and for that purpose the investigators, inspectors, representatives and agents of the department of health shall have the full power and authority of peace officers in this state, and shall have the power and authority to administer oaths, to enter upon premises at all times for the purpose of making inspections, to seize evidence, to interrogate all persons, and to require the production of books, papers, documents or other evidence. The state health officer may institute, in its own name, proceedings to enjoin and restrain violations of this Act, regardless of whether the defendant has been convicted of violation of the penal provisions thereof, and shall not be required to pay any costs or filing fees or furnish any bond in connection therewith.

§ 4. Penalty.) Any person who violates any provision of this Act shall, upon first offense, be fined not less than one thousand dollars nor more than five thousand dollars, or confined in the county jail for not less than thirty days nor more than twelve months, or both. Each subsequent violation of

any provision of this Act shall constitute a felony and be punishable by a fine of not less than three thousand dollars nor more than ten thousand dollars, or by imprisonment in the penitentiary for not less than one nor more than three years, or both.

Approved March 13, 1963.

HIGHWAYS, BRIDGES, AND FERRIES

CHAPTER 211

S. B. No. 175

(Lips, Reichert, Longmire, Redlin)

DEFINITIONS

AN ACT

To create and enact subsection 14.1 of section 24-01-01.1 of the North Dakota Century Code, relating to defining employee compensation.

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

§ 1. Amendment.) Section 24-01-01.1 of the North Dakota Century Code is hereby amended by the creation and enactment of subsection 14.1 to read as follows:

14.1. Employee Compensation.) "Employee compensation" shall include vacation and sick leave.

Approved March 19, 1963.

CHAPTER 212

H. B. No. 621

(Giffey)

YELLOWSTONE BRIDGE, REPEAL

AN ACT

To repeal section 24-01-38 of the North Dakota Century Code, relating to the rental of the Great Northern Railway bridge across the Yellowstone River.

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

§ 1. Repeal.) Section 24-01-38 of the North Dakota Century Code is hereby repealed.

Approved March 8, 1963.

CHAPTER 213

H. B. No. 669

(Lundene, Erickson, Diehl, Opedahl, Nygaard, Overbo, Goodman)

UTILITY LINES ALONG HIGHWAYS

AN ACT

To amend and reenact section 24-01-42 of the North Dakota Century Code, relating to the construction of utility facilities adjacent to state and county highway right-of-way.

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

§ 1. **Amendment.)** Section 24-01-42 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

24-01-42. Construction of Utility Facility—Limitation.) No person, firm or association shall construct any electrical supply or communication line, gas, oil or water or other pipeline parallel to and within one hundred feet of the center line of any state highway right-of-way or within seventy-five feet of the center line of any county highway right-of-way without first obtaining the consent of the highway commissioner or board of county commissioners except that such prohibition shall not apply to highways or streets located within areas platted as town sites or additions and subdivisions thereof.

Approved March 8, 1963.

CHAPTER 214

H. B. No. 801
(Leahy)

HIGHWAY CONTRACT PAYMENTS

AN ACT

To amend and reenact section 24-02-13 of the North Dakota Century Code, relating to the payments of estimates on highway contracts and the deposit of money with the clerk of district court in condemnation cases upon the certification by the chief engineer of the state highway department and the approval of the state highway commissioner without presentation to the state auditing board.

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

§ 1. **Amendment.**) Section 24-02-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

24-02-13. Payment of Estimates on Contract or Deposits in Condemnation.) Whenever any estimate or allowance for payment, except a final estimate or payment subsequent to a final estimate, is allowed, or granted, on a contract entered into by the department, or a deposit is to be made with the clerk of district court in a condemnation proceedings, and the same is vouchered by the department for presentation to the department of accounts and purchases, instead of submitting the same to the contractor or clerk of district court for certification by him, the chief engineer of said department shall make the following certificate, in lieu of the certificate otherwise required by law, which shall be printed on the said voucher or claim:

Estimate Certificate. I hereby certify that the within estimate or claim is just and true, that the contractor herein named has rendered the services and furnished the material herein charged, that they are of the value claimed, that no part thereof has been paid, and that the foregoing estimate or claim is supported by a proper contract and bond on file in the department or that the purpose of the payment to a clerk of district court is pursuant to law and for the taking of property by condemnation.

.....
Chief Engineer, State Highway Department

After a certified estimate or deposit with a clerk of district court has been approved for payment by the commissioner,

the same shall be presented to the department of accounts and purchases for payment. The department of accounts and purchases thereupon shall prepare and issue a warrant therefor signed by the state auditor without submitting such voucher or claim to the state auditing board for examination and allowance. The foregoing procedure shall not apply to the final estimate or allowance to a contractor, nor to any estimate or allowance subsequent or supplemental to such final estimate, but such final estimate or supplemental allowance, shall conform to the provisions of law relative to the certification and approval of any other claim or demand; nor shall such procedure apply to payments to property owners involved in the taking of property in any condemnation proceeding.

Approved March 6, 1963.

CHAPTER 215

S. B. No. 172
(Lips)

BID BONDS ON PUBLIC CONTRACTS

AN ACT

To amend and reenact section 24-02-20 and subsection 4 of section 48-02-04 of the North Dakota Century Code, relating to the amount of bonds required as a prerequisite to submitting a bid on any construction work in connection with any state highway or public building.

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

§ 1. **Amendment.**) Section 24-02-20 of the North Dakota Century Code Supplement is hereby amended and reenacted to read as follows:

24-02-20. Bids, Where Opened — Requirements — Bonds or Checks of Three Lowest Bidders Retained.) All bids shall be opened at the time and place specified in the advertised request for bids. Each bid shall be accompanied by a certified or cashier's check of the bidder on a solvent North Dakota bank, in an amount equal to five percent of his bid, to be forfeited to the state highway fund should the bidder fail to effect a contract within ten days after a notice of an award or by a bidder's bond in a sum equal to ten percent of the full amount of the bid, executed by the bidder as principal and by a surety company authorized to do business in this state, conditioned that if the principal's bid be accepted and the contract awarded to him, he, within ten days after notice

of award, will execute and effect a contract in accordance with the terms of his bid and a contractor's bond as required by law and the regulations and determinations of the department.

All bonds or checks, except those of the responsible bidders submitting the three lowest and best bids, shall be returned to the bidders promptly upon opening such bids. The bond or check of the responsible bidder submitting the lowest and best bid may be cashed or retained until the contract has been awarded and executed properly. The bonds or checks of the responsible bidders submitting the second and third lowest and best bids may be returned to the bidders when the department has determined to whom the contract is to be awarded.

§ 2. Amendment.) Subsection 4 of section 48-02-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. Each bid shall be accompanied by a certified check of the bidder on a solvent North Dakota bank, in the amount equal to five percent of his bid, to be forfeited to the governing board should the bidder fail to effect a contract within ten days after a notice of an award or by a bidder's bond in a sum equal to ten percent of the full amount of the bid, executed by the bidder as principal and by a surety company authorized to do business in this state, conditioned that if the principal's bid be accepted and the contract awarded to him, he, within ten days after notice of award, will execute and effect a contract in accordance with the terms of his bid and a contractor's bond as required by law and the regulations and determinations of the department;

Approved March 9, 1963.

CHAPTER 216

H. B. No. 708
(Hauf, Stallman, Tough)

STATE HIGHWAY FUND EXPENDITURES

AN ACT

To amend and reenact section 24-02-37 of the North Dakota Century Code, relating to the expenditure of state highway funds.

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

§ 1. **Amendment.)** Section 24-02-37 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

24-02-37. State Highway Fund—How Expended.) The state highway fund, created by law and not otherwise appropriated and allocated, shall be applied and used for the purposes herein named and in the following order of priority:

1. The cost of maintaining the state highway system;
2. The cost of construction and reconstruction of highways in the amount necessary to match in whatever proportion may be required, federal aid granted to this state by the United States Government for road purposes in North Dakota; and
3. Any portion of the highway fund not allocated as provided in subsections 1 and 2 may be expended for the construction of state highways without federal aid or may be expended in the construction, improvement, or maintenance of such state highways.

All funds heretofore appropriated or hereafter appropriated or transferred to the department, whether earmarked or designated for special projects or special purposes or not, shall be placed or transferred into a single state highway fund in the office of the state treasurer and any claims for money expended by the department upon warrants prepared and issued by the department of accounts and purchases and signed by the state auditor under the provisions of this title shall be paid out of the state highway fund by the state treasurer; provided however that the commissioner shall keep and maintain complete and accurate records showing that all expenditures have been made in accordance with legislative appropriations and authorizations.

Approved March 13, 1963.

CHAPTER 217

S. B. No. 251

(Kautzmann, by request)

COUNTY BRIDGE PROJECTS

AN ACT

To amend and reenact section 24-08-03, relating to the supervision and repair of county road system bridges.

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

§ 1. **Amendment.)** Section 24-08-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

24-08-03. Supervision and Repairs of Bridge—Limit of County Liability for Negligence.) Any bridge built under the provisions of section 24-08-01 shall be under the supervision of the board of county commissioners, and the cost of rebuilding or repairing the same shall be paid by the county. Should any emergency arise requiring the immediate rebuilding or repairing of any such bridge, the board of county commissioners may rebuild or repair the same, as the circumstances require, and without advertising for bids, in case said work can be performed by a responsible party at a price not to exceed the last bid accepted by said board of county commissioners for like work. The board of county commissioners at least every two years, and so far as time and conditions may permit, shall cause an inspection to be made of all bridges on the county road system in the county. In case any bridge on the county road system shall be deemed unsafe for public use by the said board of commissioners, it forthwith shall take steps to close the same and prevent the use thereof by the public. In case any bridge on the county road system shall be deemed unsafe for loads in excess of a certain weight, the board of commissioners forthwith shall post notices on both ends of such bridge stating that such bridge is unsafe for loads beyond that weight. The county shall not be immune from claims or suits for damages arising out of negligent failure to perform the inspection and repair duties set out above, but the maximum recovery from the county on such suit or suits shall not exceed the sum of ten thousand dollars for each accident or occurrence caused by any negligent failure to inspect and repair.

Approved March 8, 1963.

CHAPTER 218

S. B. No. 290

(Nelson, Dahlund, Forkner, Roen, Chesrown, Kee, Bopp.)
(Kjos, Thompson, Baeverstad)

GRADE CROSSING SIGNALS

AN ACT

To create and enact section 24-09-08.1 of the North Dakota Century Code, relating to apportionment of cost of automatic grade crossing protection devices and making an appropriation for the payment of the state of North Dakota's share of such cost.

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

§ 1.) Section 24-09-08.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

24-09-08.1. Public Service Commission to Apportion Cost.)

In order to promote public safety at intersections of railroad lines and all classes of highways, excepting those for which federal aid is available for automatic grade crossing protection devices, the public service commission shall apportion the cost thereof in accordance with this section. In the event that the public service commission in accordance with the provisions of section 24-09-08 orders that any grade crossing shall be protected by automatic grade crossing protection devices, the public service commission shall in its order apportion the cost thereof between the railroad interested, the political subdivision having jurisdiction of the highway involved, and the state of North Dakota. Such cost shall be apportioned to such parties or to any one or more of such parties on the basis of the benefit derived respectively by highway users and the railroad from the installation of such crossing protection device. For the purpose of this section, the cost attributable to the benefit of the highway users shall be apportioned to the state of North Dakota or to the political subdivision having jurisdiction of the highway involved or to both of such parties.

§ 2. **Appropriation.)** There is hereby appropriated out of the state highway fund in the state treasury the sum of fifty thousand dollars, or so much thereof as may be necessary, to pay the share of cost of such crossing protection device as shall be apportioned to the state of North Dakota in accordance with section 1 of this Act, payment to be made by the state highway department upon order of the public service commission.

Approved March 21, 1963.

MENTALLY ILL AND RETARDED, TUBERCULAR, BLIND, AND DEAF

CHAPTER 219

H. B. No. 886

(Delayed Bills Committee)
(Stallman, Gackle, Leahy, Haugland)

COORDINATING COMMITTEE ON MENTAL RETARDATION

AN ACT

To create a coordinating committee on mental retardation, providing for the membership and officers thereof, and prescribing its powers, duties, and responsibilities.

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

§ 1. Coordinating Committee on Mental Retardation.)

There is hereby created and shall be maintained a state coordinating committee on mental retardation consisting of one or more representatives of each of the following departments, divisions, institutions, and organizations designated by the head of such agency or organization:

1. Office of superintendent of public instruction;
2. Public welfare department;
3. Health department;
4. Grafton state school;
5. Division of vocational rehabilitation;
6. A nonvoting consultant representing the North Dakota Association for Retarded Children.

Such committee shall select its own officers who shall serve for a term of one year commencing on July first of each year. Meetings shall be held at the call of the chairman or upon notice in writing signed by not less than three members of the committee. Representatives of four of the above agencies shall constitute a quorum and a majority of such quorum shall have authority to act upon any matter coming before the committee. Members of the committee shall receive no compensation for service upon such committee except compensation otherwise normally due them from their respective departments, divisions, institutions, or organizations. Members representing departments, divisions, or institutions of the state shall be reimbursed for their actual expenses incurred in serving upon such committee by their respective depart-

ment, division, or institution in the same manner and at the same rate provided by law for other state officials.

The committee shall have the duty and responsibility of making or providing for such studies and surveys of the needs of retarded persons in North Dakota as it may deem necessary, and shall coordinate the activities of all state departments, divisions, agencies, and institutions having responsibilities in the field of mental retardation.

Approved March 6, 1963.

CHAPTER 220

S. B. No. 59

(Morgan, Nelson, Forkner, Baker, Van Horn, Dahlund, Meidinger,
(Mutch, Miller, Mahoney, Strinden, Beck, Ringsak)

STATE SCHOOL NAME

AN ACT

To amend and reenact subsection 5 of section 25-01-01, sections 25-01-02, 25-04-01, and 25-04-03 of the North Dakota Century Code, relating to the name of the institution for the feeble-minded at Grafton, North Dakota.

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

§ 1. Amendment.) Subsection 5 of section 25-01-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

5. "State school" shall mean the Grafton state school and such portion of the state institution at San Haven that is designated for the care of the feeble-minded;

§ 2. Amendment.) Section 25-01-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-01-02. General Supervision Over State Hospital, State School, State Sanatorium, School for the Blind, and School for the Deaf.) The board shall have general control and management of the state hospital, the state school, the state sanatorium, school for the blind and the school for the deaf. The board shall make all bylaws, rules, and regulations, not inconsistent with the laws of this state, which are necessary for the government of such institutions, and for the admission of persons thereto and the parole and discharge of persons therefrom. The board shall be authorized to transfer patients between the Grafton state school and the state sanatorium for such purposes the board may deem necessary.

§ 3. **Amendment.)** Section 25-04-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-04-01. State School—Maintained—Name.) An institution for the feeble-minded shall be maintained at or near the city of Grafton in the county of Walsh. Such institution shall be known and designated as Grafton State School.

§ 4. **Amendment.)** Section 25-04-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-04-03. Qualifications of Superintendent.) The superintendent of the Grafton state school must be either:

1. A duly licensed physician with at least five years' experience in the field of mental health, or
2. A competent executive with at least five years' experience in hospital administration.

In the event a physician shall be appointed superintendent, he shall have power to appoint an assistant superintendent, necessary physicians, and all other employees and define their qualifications and duties; but he may name a personnel director to employ and discharge all employees except physicians. In the event an executive shall be named, he shall designate a duly licensed physician having at least five years' experience in the field of mental health as chief of medical staff and such chief of staff shall have full power to employ additional physicians, nurses, and professional assistants and shall have full power to define their qualifications and duties but all other employees shall be appointed and removed by the superintendent or a personnel director to be named by him. The salaries of all employees shall be fixed by the board within the limits of the legislative appropriations made for such purpose.

Approved March 5, 1963.

CHAPTER 221

S. B. No. 116
(Longmire)

LIMITATION ON CLAIMS FOR CARE

AN ACT

To create and enact section 25-09-06.1 of the North Dakota Century Code Supplement, limiting certain claims for the costs of care at certain state institutions.

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

§ 1.) Section 25-09-06.1 of the North Dakota Century Code Supplement is hereby created and enacted to read as follows:

25-09-06.1. Limitation on Certain Claims.) In the event any charges for the costs of care payable by responsible relatives or their estates under the provisions of section 25-09-04 shall be reduced or eliminated in accordance with the provisions of sections 25-09-05 and 25-09-06, the state shall be forever barred from asserting a claim against such responsible relatives or their estates in excess of the amount determined payable under the provisions of sections 25-09-05 and 25-09-06 for the period that such reduced charges were in effect.

Approved March 18, 1963.

CHAPTER 222

S. B. No. 234
(Trenbeath, Mahoney)

COSTS OF CARE AT STATE INSTITUTIONS

AN ACT

To amend and reenact sections 25-09-02, 25-09-03, 25-09-04, 25-09-05, 25-09-06, 25-09-07, 25-09-09 of the North Dakota Century Code, deleting reference to tuberculosis sanatorium and to provide for payment by the state of all costs of care and treatment for persons suffering from tuberculosis or suspected of having tuberculosis.

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

§ 1. **Amendment.)** Section 25-09-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-09-02. Expenses Chargeable Against Patient or His Estate—Filing Claims—Duties of County Judge.) Except as provided in section 25-09-11, expenses for care and treatment of each patient at the state hospital or state school shall be the actual average per patient cost incurred by the state at each such institution. The board of administration shall recover quarterly from the patient if possible, or from the person who has been a patient in such institution after he has been discharged from the institution, expenses for care and treatment. If any patient is receiving social security or is a veteran who has received, who is receiving, or who is entitled to receive compensation or pension from the veterans administration, such expenses shall be a current claim against such patient and may be recovered monthly by the board of administration except that the amount of seven dollars and fifty cents shall be credited to the patient's personal account from any social security money received. Claims for expenses incurred by the state for care and treatment of a patient at the state hospital or state school may be filed against the estate of such patient after his death, at any time prior to final distribution thereof, by the board of administration in the same manner and with the same effect as claims of general creditors are filed against estates of decedents. Every county judge shall forward to the board of administration a list of the names of all persons whose estates have been entered for probate or heirship proceedings in his respective county court together with the legatees, devisees, and heirs at law of such estates within thirty days after the filing of the original certificate of any probate or heirship proceedings. The board of administration shall provide all county judges with forms for the purpose of carrying out the provisions of this section.

§ 2. Amendment.) Section 25-09-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-09-03. Expenses Chargeable Against Guardianship Estate of Patient — Restrictions.) Except as provided in section 25-09-11 the expenses incurred by the state for the care and treatment of any patient at the state hospital or state school shall be charged against the guardianship estate of such patient, if he has such an estate, subject to the following restrictions:

1. No part of such estate shall be taken for such purpose if the patient has dependents within the United States dependent upon the estate for support and the taking of all or a portion of such estate would result in undue hardship to such dependents;

2. No real property belonging to such estate shall be sold during the lifetime of the patient except for the maintenance and support of his or her dependents, unless it is shown that the sale of such property will not result in undue hardship to such dependents, and in either such event, it shall be sold only upon the order of the county court having jurisdiction of the estate, with the consent of the board of administration; and
3. No personal property belonging to such estate shall be sold within five years from the date upon which the patient was sent to the institution unless such property is ordered sold by the county court having jurisdiction of the estate for the reason that such property is likely to deteriorate in value during the time herein specified.

If any real or personal property is sold pursuant to the provisions of this section, the county court shall order the proceeds of the sale to be invested safely for the benefit of the patient or to be used for the support and maintenance of his dependents, or used to pay the costs of care and treatment of the patient.

§ 3. Amendment.) Section 25-09-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-09-04. Responsible Relatives Shall Pay for Care and Treatment—Definition.) In the event of the patients' inability to pay for the costs of care and treatment, responsible relatives of such patients at the state hospital or state school shall pay to the board of administration quarterly, such costs as the board may determine reasonable for the care and treatment of patients at each institution. For purposes of this chapter and title 25 of this code "responsible relatives" shall mean the patient's spouse, father, mother or children.

§ 4. Amendment.) Section 25-09-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-09-05. Inability to Pay All or Part of Expenses.) The patient, his responsible relatives, or the executor, administrator, or guardian may make application to the board of administration to pay less than the costs or none of the costs incurred by the state for the patient's care and treatment at the state hospital or state school. Such application shall be accompanied by proof of the patient's or his estate's or responsible relatives' or their estates' inability to pay. Upon receipt of such application the board shall direct the county mental health board of the county from which the patient was admitted in the case of a patient at the state hospital or

the state school, to determine whether the patient or his responsible relatives or their estates are able to pay all, a portion, or none of the expenses incurred by the state for such patient's care and treatment. The board of administration shall approve, reject, or amend the determination made by the county mental health board. The determination made by the board of administration may be appealed to the district court of Burleigh County or the district court of the county of residence of the patient or his responsible relatives.

§ 5. Amendment.) Section 25-09-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-09-06. Application for Review of Ability to Pay.) Any patient at the state hospital or state school or any responsible relative or their executors, administrators or guardians, may make application to the board of administration not more often than once each calendar year for a review of the determination made by the board in regard to the ability of such persons or their estates to pay costs of care and treatment. Such application and review shall be treated in the same manner as an original application by such persons for a determination of their inability to pay costs of care and treatment. Upon such review, the board may reaffirm or alter the previous determination and shall have authority to make such redetermination retroactive. In addition the board on its own motion may review the ability of the patient, or his responsible relatives, or their estates, to pay for costs of care and treatment.

§ 6. Amendment.) Section 25-09-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-09-07. State's Attorneys to Bring Action for Expenses.) Upon the request of the board of administration to the various state's attorneys, in regard to expenses incurred by the state of North Dakota for the care and treatment of a patient at the state hospital or state school the respective state's attorneys shall bring an action against the patient or his estate, or his responsible relatives or their estates, for the payment of the amount due the state.

§ 7. Amendment.) Section 25-09-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-09-09. Statutes of Limitations Not Bar to Recovery.) No statute of limitations or similar statute shall bar the right of recovery for the expense incurred by the state for care and

treatment at the state hospital or state school from the patient or his estate, but this section shall not apply to claims that may be otherwise barred by law prior to July 1, 1961.

§ 8. Care and Treatment of Tuberculosis Patients or Suspects Provided Without Charge by State.) Care and treatment provided by the state of North Dakota for persons suffering from tuberculosis, including diagnosis, tests, studies and analyses for the discovery of tuberculosis at the North Dakota state tuberculosis sanatorium shall be available without cost or charge to anyone who is suffering from tuberculosis or is suspected of having tuberculosis. Any such person who volunteers to assume and pay for the cost of such care and treatment or for the cost of such diagnosis, tests, studies or analyses shall be permitted to do so; but no state, county or other public official shall request or require such payment or make or cause to be made any inquiry or investigation for the purpose of determining the ability of such person or of his legally responsible relatives to pay therefor. This article shall in no way bar freedom of the individual to seek treatment from a physician or in an institution of his choice at his own expense.

§ 9. State Has Prior Claim on Patient Benefits.) Notwithstanding any provision in this Act contained, the state of North Dakota shall have prior claim on benefits accruing to patients for care and treatment of tuberculosis including diagnosis, tests, studies, and analyses under entitlement by the Federal Government, medical or hospital insurance contracts, workmen's compensation or the medical care and disability provisions of programs under the supervision of the public welfare board of North Dakota.

§ 10. Declaration of Legislative Intent.) It is hereby declared that it is the intent of the legislative assembly, as follows:

It is the policy of the state of North Dakota to treat persons having tuberculosis in a communicable and contagious stage as dangerous to the health and welfare of the citizens of the state. It is also the policy of the state to declare that all cases of tuberculosis in a communicable or contagious stage should be isolated in a state institution or licensed hospital, or at home if such home isolation meets the approval of the local health officer. To this end, it is declared that isolation provisions to achieve isolation of such communicable or contagious tuberculous persons should be accomplished to the fullest extent regardless of such person's ability to pay. It is further declared that such persons with communicable or contagious tuberculosis shall be given full opportunity to enter isolation

voluntarily. In order to prevent effectively the spread of this disease it is necessary that the state:

1. Further the discovery, care, supervision and treatment of persons having tuberculosis in a communicable or contagious stage.
2. Encourage the use of all available public and private facilities to that end.
3. Regard this tuberculosis program as one of public health and one to be dealt with according to public health requirements rather than those of indigency.

Approved March 22, 1963.

CHAPTER 223

H. B. No. 580

(Stallman, Haugland, Miller, Burvee, Haugen)

REDUCTION IN CLAIMS FOR CARE

AN ACT

To create and enact section 25-09-11 of the North Dakota Century Code, providing for the reduction of and limitations upon claims for the expense of care and treatment at the Grafton state school.

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

§ 1.) Section 25-09-11 of the North Dakota Century Code is hereby created and enacted to read as follows:

25-09-11. Reductions in Claims Against Responsible Relatives for Patients at State School.) Commencing with the effective date of this section, and at the beginning of each calendar year thereafter, the superintendent of public instruction shall certify to the board of administration the average annual per-pupil cost of education in the public schools of the state for the most recent school year for which statistics are available. The board of administration shall prorate such average annual per-pupil cost of education over the calendar year and shall deduct such cost from the expenses of care and treatment provided in and chargeable to each patient at the state school under section 25-09-02 or to responsible relatives of such patient under sections 25-09-04 and 25-09-06. Such deduction shall continue for a period of fifteen years after the date of the first admission of each patient to the state school or until the patient reaches his twenty-first birthday, whichever shall first occur. During such period the responsible relatives, or their respective estates shall not be liable for

more than a sum equal to seven hundred and fifty dollars, less the prorated average per-pupil costs of education. At no time shall the claims by the state to the responsible relatives or their estates be reduced below two hundred and forty dollars annually, with the exception that such claims for care and treatment at the state school may be further reduced in accordance with the provisions of sections 25-09-05 and 25-09-06. After the passage of the above-mentioned fifteen-year period, or after such patient reaches his twenty-first birthday, whichever shall first occur, claims against responsible relatives shall be terminated against said responsible relatives but actual costs of care and treatment shall accrue against the estate of the responsible relatives from this date.

Claims against the estates of responsible relatives for the care and treatment of patients at the state school shall not exceed an amount equal to that portion of the value of the estate which would pass to the patient under the intestacy laws of this state had the responsible relative died intestate during the life of the patient, but this limitation shall not bar additional or subsequent claims against any patient or any patient's estate regardless of the source of the property constituting such estate. Claims against the responsible relatives, or their estates, shall be retroactive to time of admission of the patient to the state school, in accordance with the above provision.

Parents with more than one patient in the state school shall pay as full payment for their children in the state school as follows:

1. Second child admitted to the state school, fifty percent of the regular charge assessed against the first patient;
2. Third child admitted to the state school, twenty-five percent of the regular charge assessed the first patient;
3. Fourth and successive children admitted to the state school, no charge.

Such claims may be further reduced as provided by sections 25-09-05 and 25-09-06.

No statute of limitations or similar statute shall bar the right of recovery for the expense incurred by the state for care and treatment at the state school from the patient or his estate and responsible relatives or their estates, but this section shall not apply to claims that may be otherwise barred by law prior to July 1, 1963.

Approved March 21, 1963.

CHAPTER 224

S. B. No. 224

(Miller, Redlin, Kisse, Mahoney, Longmire, Foss)

INTERSTATE MENTAL HEALTH COMPACT

AN ACT

To provide for an interstate compact on mental health, assuring care and treatment of mentally ill persons in any member state, permitting the transfer of patients, and providing for after care services for mental patients released from the state hospital in any member state.

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

§ 1. Enactment of Interstate Compact on Mental Health.)

The interstate compact on mental health is hereby enacted into law and entered into by this state with all other states legally joining therein in the form substantially as follows:

Article I. The party states find that the proper and expeditious treatment of the mentally ill and mentally deficient can be facilitated by cooperative action, to the benefit of the patients, their families, and society as a whole. Further, the party states find that the necessity of and desirability for furnishing such care and treatment bears no primary relation to the residence or citizenship of the patient but that, on the contrary, the controlling factors of community safety and humanitarianism require that facilities and services be made available for all who are in need of them. Consequently, it is the purpose of this compact and of the party states to provide the necessary legal basis for the institutionalization or other appropriate care and treatment of the mentally ill and mentally deficient under a system that recognizes the paramount importance of patient welfare and to establish the responsibilities of the party states in terms of such welfare.

Article II. As used in this compact:

1. "Sending state" shall mean a party from which a patient is transported pursuant to the provisions of the compact or from which it is contemplated that a patient may be so sent.
2. "Receiving state" shall mean a party state to which a patient is transported pursuant to the provisions of the compact or to which it is contemplated that a patient may be so sent.
3. "Institution" shall mean any hospital or other facility maintained by a party state or political subdivision

thereof for the care and treatment of mental illness or mental deficiency.

4. "Patient" shall mean any person subject to or eligible as determined by the laws of the sending state, for institutionalization or other care, treatment, or supervision pursuant to the provisions of this compact.
5. "After-care" shall mean care, treatment and services provided a patient, as defined herein, on convalescent status or conditional release.
6. "Mental illness" shall mean mental disease to such extent that a person so afflicted requires care and treatment for his own welfare, or the welfare of others, or of the community.
7. "Mental deficiency" shall mean mental deficiency as defined by appropriate clinical authorities to such extent that a person so afflicted is incapable of managing himself and his affairs, but shall not include mental illness as defined herein.
8. "State" shall mean any state, territory or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

Article III.

1. Whenever a person physically present in any party state shall be in need of institutionalization by reason of mental illness or mental deficiency, he shall be eligible for care and treatment in an institution in that state irrespective of his residence, settlement or citizenship qualifications.
2. The provisions of paragraph 1 of this article to the contrary notwithstanding, any patient may be transferred to an institution in another state whenever there are factors based upon clinical determinations indicating that the care and treatment of said patient would be facilitated or improved thereby. Any such institutionalization may be for the entire period of care and treatment or for any portion or portions thereof. The factors referred to in this paragraph shall include the patient's full record with due regard for the location of the patient's family, character of the illness and probable duration thereof, and such other factors as shall be considered appropriate.
3. No state shall be obliged to receive any patient pursuant to the provisions of paragraph 2 of this article unless the sending state has given advance notice of its intention to send the patient; furnished all available medical and other pertinent records concerning the patient; given the qualified medical or other appropriate clinical

- authorities of the receiving state an opportunity to examine the patient if said authorities so wish; and unless the receiving state shall agree to accept the patient.
4. In the event that the laws of the receiving state establish a system of priorities for the admission of patients, an interstate patient under this compact shall receive the same priority as a local patient and shall be taken in the same order and at the same time that he would be taken if he were a local patient.
 5. Pursuant to this compact, the determination as to the suitable place of institutionalization for a patient may be reviewed at any time and such further transfer of the patient may be made as seems likely to be in the best interest of the patient.

Article IV.

1. Whenever, pursuant to the laws of the state in which a patient is physically present, it shall be determined that the patient should receive after-care or supervision, such care or supervision may be provided in a receiving state. If the medical or other appropriate clinical authorities having responsibility for the care and treatment of the patient in the sending state shall have reason to believe that after-care in another state would be in the best interest of the patient and would not jeopardize the public safety, they shall request the appropriate authorities in the receiving state to investigate the desirability of affording the patient such after-care in said receiving state, and such investigation shall be made with all reasonable speed. The request for investigation shall be accompanied by complete information concerning the patient's intended place of residence and the identity of the person in whose charge it is proposed to place the patient, the complete medical history of the patient, and such other documents as may be pertinent.
2. If the medical or other appropriate clinical authorities having responsibility for the care and treatment of the patient in the sending state and the appropriate authorities in the receiving state find that the best interest of the patient would be served thereby, and if the public safety would not be jeopardized thereby, the patient may receive after-care or supervision in the receiving state.
3. In supervising, treating, or caring for a patient on after-care pursuant to the terms of this article, a receiving state shall employ the same standards of visitation, examination, care, and treatment that it employs for similar local patients.

Article V. Whenever a dangerous or potentially dangerous patient escapes from an institution in any party state, that state shall promptly notify all appropriate authorities within and without the jurisdiction of the escape in a manner reasonably calculated to facilitate the speedy apprehension of the escapee. Immediately upon the apprehension and identification of any such dangerous or potentially dangerous patient, he shall be detained in the state where found pending disposition in accordance with law.

Article VI. The duly accredited officers of any state party to this compact, upon the establishment of their authority and the identity of the patient, shall be permitted to transport any patient being moved pursuant to this compact through any and all states party to this compact, without interference.

Article VII.

1. No person shall be deemed a patient of more than one institution at any given time. Completion of transfer of any patient to an institution in a receiving state shall have the effect of making the person a patient of the institution in the receiving state.
2. The sending state shall pay all costs of and incidental to the transportation of any patient pursuant to this compact, but any two or more party states may, by making a specific agreement for that purpose, arrange for a different allocation of costs as among themselves.
3. No provision of this compact shall be construed to alter or affect any internal relationships among the departments, agencies and officers of and in the government of a party state, or between a party state and its subdivisions, as to the payment of costs, or responsibilities therefor.
4. Nothing in this compact shall be construed to prevent any party state or subdivision thereof from asserting any right against any person, agency or other entity in regard to costs for which such party state or subdivision thereof may be responsible pursuant to any provision of this compact.
5. Nothing in this compact shall be construed to invalidate any reciprocal agreement between a party state and a non-party state relating to institutionalization, care or treatment of the mentally ill or mentally deficient, or any statutory authority pursuant to which such agreements may be made.

Article VIII.

1. Nothing in this compact shall be construed to abridge, diminish, or in any way impair the rights, duties, and responsibilities of any patient's guardian on his own behalf or in respect of any patient for whom he may serve, except that where the transfer of any patient to another jurisdiction makes advisable the appointment of a supplemental or substitute guardian, any court of competent jurisdiction in the receiving state may make such supplemental or substitute appointment and the court which appointed the previous guardian shall upon being duly advised of the new appointment, and upon the satisfactory completion of such accounting and other acts as such court may by law require, relieve the previous guardian of power and responsibility to whatever extent shall be appropriate in the circumstances; provided, however, that in the case of any patient having settlement in the sending state, the court of competent jurisdiction in the sending state shall have the sole discretion to relieve a guardian appointed by it or continue his power and responsibility, whichever it shall deem advisable. The court in the receiving state may, in its discretion, confirm or reappoint the person or persons previously serving as guardian in the sending state in lieu of making a supplemental or substitute appointment.
2. The term "guardian" as used in paragraph 1 of this article shall include any guardian, trustee, legal committee, conservator, or other person or agency however denominated who is charged by law with power to act for or responsibility for the person or property of a patient.

Article IX.

1. No provision of this compact except Article V shall apply to any person institutionalized while under sentence in a penal or correctional institution or while subject to trial on a criminal charge, or whose institutionalization is due to the commission of an offense for which, in the absence of mental illness or mental deficiency, said person would be subject to incarceration in a penal or correctional institution.
2. To every extent possible, it shall be the policy of states party to this compact that no patient shall be placed or detained in any prison, jail or lockup, but such patient shall, with all expedition, be taken to a suitable institutional facility for mental illness or mental deficiency.

Article X.

1. Each party state shall appoint a "compact administrator" who, on behalf of his state, shall act as general coordinator of activities under the compact in his state and who shall receive copies of all reports, correspondence, and other documents relating to any patient processed under the compact by his state either in the capacity of sending or receiving state. The compact administrator or his duly designated representative shall be the official with whom other party states shall deal in any matter relating to the compact or any patient processed thereunder.
2. The compact administrators of the respective party states shall have power to promulgate reasonable rules and regulations to carry out more effectively the terms and provisions of this compact.

Article XI. The duly constituted administrative authorities of any two or more party states may enter into supplementary agreements for the provision of any service or facility or for the maintenance of any institution on a joint or cooperative basis whenever the states concerned shall find that such agreements will improve services, facilities, or institutional care and treatment in the fields of mental illness or mental deficiency. No such supplementary agreement shall be construed so as to relieve any party state of any obligation which it otherwise would have under other provisions of this compact.

Article XII. This compact shall enter into full force and effect as to any state when enacted by it into law and such state shall thereafter be a party thereto with any and all states legally joining therein.

Article XIII.

1. A state party to this compact may withdraw therefrom by enacting a statute repealing the same. Such withdrawal shall take effect one year after notice thereof has been communicated officially and in writing to the governors and compact administrators of all other party states. However, the withdrawal of any state shall not change the status of any patient who has been sent to said state or sent out of said state pursuant to the provisions of the compact.
2. Withdrawal from any agreement permitted by Article VII - 2 as to costs or from any supplementary agreement made pursuant to Article XI shall be in accordance with the terms of such agreement.

Article XIV. This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the Constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the Constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

§ 2. Compact Administrator — Powers.) Pursuant to said compact, the director of the mental health division shall be the compact administrator and who, acting jointly with like officers of other party states, shall have power to promulgate rules and regulations to carry out more effectively the terms of the compact. The compact administrator is hereby authorized, empowered and directed to cooperate with all departments, agencies and officers of and in the government of this state and its subdivisions in facilitating the proper administration of the compact of any supplementary agreement or agreements entered into by this state thereunder.

§ 3. Power to Make Supplementary Agreements—Limitation.) The compact administrator is hereby authorized and empowered to enter into supplementary agreements with appropriate officials of other states pursuant to Articles VII and XI of the compact. In the event that such supplementary agreements shall require or contemplate the use of any institution or facility of this state or require or contemplate the provision of any service by this state, no such agreement shall have force or effect until approved by the head of the department or agency under whose jurisdiction said institution or facility is operated or whose department or agency will be charged with the rendering of such service.

§ 4. Discharge of Financial Obligations.) The compact administrator, subject to the approval of the state treasurer, may make or arrange for any payments necessary to discharge any financial obligations imposed upon this state by the compact or by any supplementary agreement entered into thereunder.

§ 5. Transfer of Patients—Approval of Court.) The compact administrator is hereby directed to consult with the

immediate family of any proposed transferee and, in the case of a proposed transferee from an institution in this state to an institution in another party state, to take no final action without approval of the county court which committed such patient, or if such patient was not committed, then without approval of the county court of Stutsman County.

§ 6. Transmission of Copies of Act.) Duly authorized copies of this Act shall, upon its approval be transmitted by the secretary of state to the governor of each state, the attorney general and the Administrator of General Services of the United States, and the Council of State Governments.

§ 7. Effective Date.) This Act shall be effective July 1, 1963.

Approved March 18, 1963.

INSURANCE

CHAPTER 225

H. B. No. 633
(Vinje)

COUNTY MUTUAL REINSURANCE

AN ACT

To amend and reenact section 26-15-24 of the North Dakota Century Code, relating to county mutual fire and lightning insurance companies.

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

§ 1. **Amendment.)** Section 26-15-24 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-15-24. County Mutual Fire and Lightning Insurance Companies May Form Reinsurance Company.) Any number, not less than five, of county mutual fire and lightning insurance companies which are organized under the provisions of this chapter may form a corporation for the purpose of reinsuring the fire, lightning, and extended coverage and other risks of its members permitted to be written under the provisions of this chapter on the mutual plan.

Approved March 4, 1963.

CHAPTER 226

H. B. No. 575
(Lindberg, Fitch)

LICENSING FOREIGN INSURANCE COMPANIES

AN ACT

To amend and reenact section 26-17-10 of the North Dakota Century Code, relating to foreign insurance and surety companies.

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

§ 1. **Amendment.)** Section 26-17-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-17-10. Foreign Insurance and Surety Companies Required to Have Licensed Local Agent—Exceptions.) No foreign surety or insurance company other than a life insurance company, shall issue any surety bond or policy of insurance of any kind on any person, firm, or corporation, or on property within this state except through a local agent who is commissioned and licensed regularly to transact insurance business therein. The provisions of this chapter relating to local agents, however, shall not apply to:

1. Direct insurance covering the rolling stock of railroad corporations;
2. Direct insurance covering property in transit while the same is in the possession and custody of a railroad corporation or other common carrier;
3. Direct insurance covering movable property of railroads or other common carriers used or employed by them in their business as common carriers;
4. Insurance written or carried by the state of North Dakota;
5. Any policy or bond written or issued by a mutual company upon which no commission shall be paid to any local agent; or
6. Bid bonds issued by any surety company in connection with any public or private contract.

Approved March 6, 1963.

CHAPTER 227

H. B. No. 625

(Leet, Currie, Bratcher, Brown, Dick, Skaar, Etestad, Poling,
(Opedah, Berg, Overbo, Goebel, Mosal, Wilkie)

STATE HAIL INSURANCE

AN ACT

To amend and reenact sections 26-22-11, 26-22-18, 26-22-21, 26-22-23, 26-22-24, 26-22-30, 26-22-32, 26-22-44, and 26-22-52 of the North Dakota Century Code, relating to crops insurable for hail insurance, applications for hail insurance, amount of indemnity and when losses allowed, additional insurance, zones and districts in which hail indemnity tax to be levied and the rates thereof, duties of commissioner of insurance, county auditors, and county treasurers; and notice and payment of loss, and declaring an emergency.

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

§ 1. **Amendment.)** Section 26-22-11 of the North Dakota Century Code Supplement is hereby amended and reenacted to read as follows:

26-22-11. Crops Insurable — Dates When Coverage on Insured Crops Commences and Terminates.) Crops of rye, wheat, speltz, barley, oats, flax, corn, buckwheat, millet, sweet clover, alfalfa and cane grown on cultivated land which is listed as actually cropped are insurable in the state hail insurance department in the manner specified in this chapter. Insurance obtained under the provisions of this chapter shall become effective at midnight in the time zone in which the application is carried of the postmark date shown on the envelope in which the application was mailed to the department, or if delivered in person, midnight of the date of delivery. Expiration dates for all crops in townships 129 through 150 inclusive are as follows: winter rye or winter wheat, August fifteenth; oats, speltz, barley, September first; corn and wheat and all other insurable crops except flax, September tenth; flax, September twentieth. Expiration dates for all crops in townships 151 through 164 inclusive are as follows: winter rye or winter wheat, September first; oats, speltz, barley, September tenth; corn and wheat and all other insurable crops except flax, September fifteenth; flax, September twentieth. All expirations shall become effective at twelve o'clock midnight of the dates above specified. Any crops which have been damaged materially by hail before an application is filed with the state hail insurance department shall not be insured until the percent of damage has been determined. This damage is

to be taken into consideration in case additional hail loss is sustained.

§ 2. Amendment.) Section 26-22-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-22-18. Owner or Tenant of Land Which Has Been Leased May Insure His Interest in Crop.) When land has been leased and the crop thereon put in by a tenant who has agreed to deliver a portion of the crop to the owner as rental for the land the owner or the tenant of the land may make application for hail insurance upon any part of his proportionate share of the crop. If the owner or the tenant does not insure his interest, he can relinquish his interest in favor of the other, by written consent filed with the application.

§ 3. Amendment.) Section 26-22-21 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-22-21. Applications Effective When Approved by Commissioner — Duty of Commissioner When Application Approved.) Hail insurance coverage furnished under the provisions of this chapter shall not be effective until midnight as provided pursuant to section 26-22-11 of the date shown on the postmark, according to the department's receiving records if mailed, and until midnight of the date an application is stamped received, if it is personally delivered to the office of the state hail insurance department, subject, however, to the approval of the commissioner of insurance as to insurability. The commissioner of insurance may, for a good cause, refuse approval of any application for hail insurance. Immediately upon the receipt and checking of the original and duplicate copies of an application for state hail insurance coverage in the office of the hail insurance department, the commissioner of insurance, if he approves the application, shall cause to be endorsed thereon his approval of the application and the date when the insurance is effective. The duplicate copy of the application, when it is so endorsed, shall be returned to the applicant and shall constitute the policy of insurance and shall entitle the applicant to the coverage permitted under the provisions of this chapter.

§ 4. Amendment.) Section 26-22-23 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-22-23. Amount of Indemnity — When Losses Allowed.) The maximum amount of indemnity for total loss shall be twenty dollars per acre insurance. No indemnity shall be

allowed to any claimant for a loss of less than five percent, and a loss of ninety percent or over shall be deemed a total loss. A loss of one hundred percent of actual determined hail damage may be allowed to insured wheat, oats, barley, rye, and flax crops laying in windrows, bound or shocked. Only loss or damage to crops directly traceable to hail shall be allowed and no indemnity shall be allowed or paid for damage to any crop after it is abandoned.

If the claims paid have exceeded the tax levied in any county in Zone No. 1, not including administrative expense, for the last fifteen years including the current year, then the following proportions shall be used in paying the current losses:

If the current loss ratio is over 14 percent but not more than 15 percent, then the hail loss payment shall be paid on the basis of 80 percent of the total amount allowed.

If the current loss ratio is over 15 percent but not more than 16 percent, then the hail loss payment shall be paid on the basis of 75 percent of the total amount allowed.

If the current loss ratio is 16 percent but not more than 17 percent, then the hail loss payment shall be paid on the basis of 70 percent of the total amount allowed.

If the current loss ratio is over 17 percent but not more than 18 percent, then the hail loss payment shall be paid on the basis of 65 percent of the total amount allowed.

If the current loss ratio is over 18 percent but not more than 19 percent, then the hail loss payment shall be paid on the basis of 60 percent of the total amount allowed.

If the current loss ratio is over 19 percent but not more than 20 percent, then the hail loss payment shall be paid on the basis of 55 percent of the total amount allowed.

If the current loss ratio is over 20 percent, then the hail loss payment shall be paid on the basis of 50 percent of the total amount allowed.

If the claims paid have exceeded the tax levied in any county in Zone No. 2, not including administrative expense, for the last fifteen years including the current year, then the following proportions shall be used in paying the current losses:

If the current loss ratio is over 16 percent but not more than 17½ percent, then the hail loss payment shall be paid on the basis of 80 percent of the total amount allowed.

If the current loss ratio is over 17½ percent but not more than 19 percent, then the hail loss payment shall be paid on the basis of 75 percent of the total amount allowed.

If the current loss ratio is over 19 percent but not more than 20½ percent, then the hail loss payment shall be paid on the basis of 70 percent of the total amount allowed.

If the current loss ratio is over 20½ percent but not more than 22 percent, then the hail loss payment shall be paid on the basis of 65 percent of the total amount allowed.

If the current loss ratio is over 22 percent but not more than 23½ percent, then the hail loss payment shall be paid on the basis of 60 percent of the total amount allowed.

If the current loss ratio is over 23½ percent but not more than 25 percent then the hail loss payment shall be paid on the basis of 55 percent of the total amount allowed.

If the current loss ratio is over 25 percent, then the hail loss payment shall be paid on the basis of 50 percent of the total amount allowed.

If the claims paid have exceeded the tax levied in any county in Zone No. 3, not including administrative expense, for the last fifteen years including the current year, then the following proportions shall be used in paying the current losses:

If the current loss ratio is over 18 percent but not more than 20 percent, then the hail loss payment shall be paid on the basis of 80 percent of the total amount allowed.

If the current loss ratio is over 20 percent but not more than 22 percent, then the hail loss payment shall be paid on the basis of 75 percent of the total amount allowed.

If the current loss ratio is over 22 percent but not more than 24 percent, then the hail loss payment shall be paid on the basis of 70 percent of the total amount allowed.

If the current loss ratio is over 24 percent but not more than 26 percent, then the hail loss payment shall be paid on the basis of 65 percent of the total amount allowed.

If the current loss ratio is more than 26 percent but not more than 28 percent, then the hail loss payment shall be paid on the basis of 60 percent of the total amount allowed.

If the current loss ratio is over 28 percent but not more than 30 percent, then the hail loss payment shall be paid on the basis of 55 percent of the total amount allowed.

If the current loss ratio is over 30 percent, then the hail loss payment shall be paid on the basis of 50 percent of the total amount allowed.

If the claims paid have exceeded the tax levied in any county in Zone No. 4, not including administrative expense,

for the last fifteen years including the current year, then the following proportions shall be used in paying the current losses:

If the current loss ratio is over 20 percent but not more than 22½ percent, then the hail loss payment shall be paid on the basis of 80 percent of the total amount allowed.

If the current loss ratio is over 22½ percent but not more than 25 percent, then the hail loss payment shall be paid on the basis of 75 percent of the total amount allowed.

If the current loss ratio is over 25 percent but not more than 27½ percent, then the hail loss payment shall be paid on the basis of 70 percent of the total amount allowed.

If the current loss ratio is over 27½ percent but not more than 30 percent, then the hail loss payment shall be paid on the basis of 65 percent of the total amount allowed.

If the current loss ratio is over 30 percent but not more than 32½ percent, then the hail loss payment shall be paid on the basis of 60 percent of the total amount allowed.

If the current loss ratio is over 32½ percent but not more than 35 percent, then the hail loss payment shall be paid on the basis of 55 percent of the total amount allowed, and

If the current loss ratio is over 35 percent then the hail loss payment shall be paid on the basis of 50 percent of the total amount allowed.

§ 5. Amendment.) Section 26-22-24 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-22-24. Additional Insurance—Application—When Effective—Contents of Application.) If the original application for hail insurance is a partial of twenty dollars per acre insurance, the insured, before loss and before July fifteenth, may make an application to the state hail insurance department for the balance of the partial. The original and additional applications, together, shall not exceed twenty dollars per acre. Such application shall be made in duplicate upon forms prepared and furnished by the commissioner of insurance, and shall be mailed directly to the department at Bismarck, and shall contain the legal description of the land, the kind of crops, the acreage thereof on which additional insurance is desired, and a statement to the effect that such crops have not been damaged or destroyed by hail. The location of the crops on which additional insurance is desired shall be shown on a diagram on the application blank. The application shall be signed by the applicant and shall be acknowledged before an assessor or sworn to before someone authorized to administer

oaths. If the applicant is a tenant, the signed consent of the person liable for the hail indemnity tax must appear upon such application, and if the owner makes such application the written consent of the tenant must appear thereon. If an owner or a tenant acts as agent one for the other in filing such application, a written authorization so to act shall be attached to the application. An application for additional insurance is subject to the approval of the commissioner of insurance, and if approved, the duplicate thereof shall be returned to the applicant and shall be his policy of insurance. In no event shall such additional insurance become effective until midnight of the date shown on the postmark, according to the department's receiving records, if mailed, and until midnight of the date an application is stamped "received" if it is personally delivered to the office of the state hail insurance department, subject however to the approval of the commissioner of insurance as to insurability.

§ 6. **Amendment.**) Section 26-22-30 of the North Dakota Century Code Supplement is hereby amended and reenacted to read as follows:

26-22-30. Zones and Districts in State for Purposes of Levying Hail Indemnity Tax — Rates Between Zone and District Levies.) For the purpose of levying the acreage indemnity tax required under the provisions of this chapter, the state shall be divided into four zones as follows:

Zone No. 1 shall include the counties of Pembina, Ramsey, Walsh, Nelson, Grand Forks, Steele, Traill, Cass, Ransom, Sargent and Richland;

Zone No. 2 shall include the counties of Bottineau, Rolette, Towner, Cavalier, McHenry, Pierce, Benson, Wells, Eddy, Foster, Griggs, Kidder, Stutsman, Barnes, LaMoure and Dickey;

Zone No. 3 shall include the counties of Burke, Renville, Mountrail, Ward, McLean, Sheridan, Mercer, Oliver, Morton, Burleigh, Grant, Sioux, Emmons, Logan, and McIntosh;

Zone No. 4 shall include the counties of Divide, Williams, McKenzie, Dunn, Golden Valley, Billings, Stark, Slope, Hettinger, Bowman and Adams.

The following proportions or loss ratios shall be used in Zone No. 1 as follows:

1. District No. 1 shall consist of all counties showing an actual cost of not more than one percent of the risk carried;
2. District No. 2 shall consist of all counties showing an actual cost of over one percent but not more than two percent of the risk carried;

3. District No. 3 shall consist of all counties showing an actual cost of over two percent but not more than three percent of the risk carried;
4. District No. 4 shall consist of all counties showing an actual cost of over three percent but not more than four percent of the risk carried;
5. District No. 5 shall consist of all counties showing an actual cost of over four percent but not more than five percent of the risk carried;
6. District No. 6 shall consist of all counties showing an actual cost of over five percent of the risk carried and such counties with an average loss ratio of five percent or over for the current year and the next two preceding years when insurance is carried.

The following proportions or loss ratios shall be used in Zone No. 2 as follows:

1. District No. 1 shall consist of all counties showing an actual cost of not more than two percent of the risk carried;
2. District No. 2 shall consist of all counties showing an actual cost of over two percent but not more than four percent of the risk carried;
3. District No. 3 shall consist of all counties showing an actual cost of over four percent but not more than five percent of the risk carried;
4. District No. 4 shall consist of all counties showing an actual cost of over five percent but not more than six percent of the risk carried;
5. District No. 5 shall consist of all counties showing an actual cost of over six percent but not more than seven percent of the risk carried;
6. District No. 6 shall consist of all counties showing an actual cost of over seven percent of the risk carried and such counties with an average loss ratio of seven percent or over for the current year and the next two preceding years when insurance is carried.

The following proportions or loss ratios shall be used in Zone No. 3 as follows:

1. District No. 1 shall consist of all counties showing an actual cost of not more than three percent of the risk carried;
2. District No. 2 shall consist of all counties showing an actual cost of over three percent but not more than five percent of the risk carried;

3. District No. 3 shall consist of all counties showing an actual cost of over five percent but not more than six percent of the risk carried;
4. District No. 4 shall consist of all counties showing an actual cost of over six percent but not more than seven percent of the risk carried;
5. District No. 5 shall consist of all counties showing an actual cost of over seven percent but not more than eight percent of the risk carried;
6. District No. 6 shall consist of all counties showing an actual cost of over eight percent of the risk carried and such counties with an average loss ratio of nine percent or over for the current year and the next two preceding years when insurance is carried.

The following proportions or loss ratios shall be used in Zone No. 4 as follows:

1. District No. 1 shall consist of all counties showing an actual cost of not more than four percent of the risk carried;
2. District No. 2 shall consist of all counties showing an actual cost of over four percent but not more than six percent of the risk carried;
3. District No. 3 shall consist of all counties showing an actual cost of over six percent but not more than eight percent of the risk carried;
4. District No. 4 shall consist of all counties showing an actual cost of over eight percent but not more than ten percent of the risk carried;
5. District No. 5 shall consist of all counties showing an actual cost of over ten percent but not more than twelve percent of the risk carried;
6. District No. 6 shall consist of all counties showing an actual cost of over twelve percent of the risk carried and such counties with an average loss ratio of twelve percent or over for the current year and the next two preceding years when insurance is carried.

In Zone No. 1 the following rates shall be used:

1. District No. 1, not more than $2\frac{1}{2}\%$
2. District No. 2, not more than 3%
3. District No. 3, not more than 4%
4. District No. 4, not more than $4\frac{1}{2}\%$
5. District No. 5, not more than 5%
6. District No. 6, not more than 6%

In Zone No. 2 the following rates shall be used:

1. District No. 1, not more than 4%
2. District No. 2, not more than 5%

3. District No. 3, not more than 6%
4. District No. 4, not more than 7%
5. District No. 5, not more than 8%
6. District No. 6, not more than 9%

In Zone No. 3 the following rates shall be used:

1. District No. 1, not more than 5%
2. District No. 2, not more than 6%
3. District No. 3, not more than 7%
4. District No. 4, not more than 8%
5. District No. 5, not more than 9%
6. District No. 6, not more than 11%

In Zone 4 the following rates shall be used:

1. District No. 1, not more than 8%
2. District No. 2, not more than 10%
3. District No. 3, not more than 12%
4. District No. 4, not more than 14%
5. District No. 5, not more than 16%
6. District No. 6, not more than 18%

In all four Zones a surcharge of thirty percent of the rate in each county shall be charged on all barley and rye crops.

§ 7. **Amendment.**) Section 26-22-32 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-22-32. Commissioner Determines Rate of Hail Indemnity Tax Levy—Collection of Hail Indemnity Tax by Commissioner with Discount—Certificate to County Auditors—Duties of County Auditors and Treasurers.) The commissioner of insurance shall determine the rate of levy for the hail indemnity tax in each of the districts described in section 26-22-30. When twenty dollars per acre insurance is carried, or any part thereof, the indemnity tax for a partial shall be based on the twenty dollars per acre insurance.

As soon as possible after the hail indemnity tax rates have been determined, the commissioner shall send a statement by mail to each owner of real property against which the hail indemnity tax has been levied, setting forth the amount of said hail indemnity tax. The commissioner shall allow a five percent discount to all persons who shall pay all of the hail indemnity tax levied on any tract or parcel of real property in any one year in full on or before the fifteenth day of November of the year in which such hail indemnity tax has been levied. As soon as possible after the fifteenth day of November of each year, the commissioner through the state hail insurance department, shall file with the county auditor of each county a complete list of descriptions of lands within such county upon which the state hail insurance department

has carried the protection for the then current season based on the regular applications for hail insurance on file in his office after cancellation thereof and changes therein have been considered and cash payments have been credited. Each county auditor shall enter the unpaid hail indemnity tax in the tax list for his county and spread the same upon the tax rolls thereof in separate columns showing the amount of indemnity tax charged against each description of each tract, parcel, or subdivision of land insured with the department using the list described in this section as the basis therefor. The several county auditors and county treasurers shall make proper corrections on their records and shall cause deductions of hail indemnity taxes to be made from time to time upon receipt of certification from state hail insurance department.

§ 8. **Amendment.**) Section 26-22-44 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-22-44. Notice of Loss—When and Where Filed—Contents—Adjustment Ordered—Costs When Notice Filed Late.) Any person claiming a loss by hail upon crops which are insured under this chapter shall notify the commissioner of insurance by registered or certified mail within three days after the loss has been sustained. Such notice shall show:

1. The legal description of the land upon which the loss is claimed;
2. The interest in the damaged crop which is claimed by the person giving notice of loss;
3. The name and post office address of the person who is liable for the tax upon the land upon which the loss is sustained;
4. The name and post office address of any other person claiming any interest in the damaged crop or in the hail indemnity thereon;
5. The date of the loss;
6. The estimated percentage of damage claimed; and
7. Claimant must authorize someone, in his stead, to show the adjuster the damaged crops, and to make settlement if he can not be present when the adjuster calls. If no one has been authorized, any additional adjuster's expense shall then be charged to the claimant.

The commissioner, as soon as possible after receiving such notice of loss, shall direct an official adjuster to visit the place of loss for the purpose of estimating and adjusting the same. The commissioner may extend for a reasonable period of time for reporting a hail loss to the department, upon the showing of an excuse for the failure to file within the time herein

specified which is satisfactory to the commissioner. If the notice of loss is not given within three days after the loss has been sustained, the commissioner may grant an adjustment, and if such adjustment is granted, the cost of the adjustment, in the discretion of the commissioner, may be charged against the claimant or deducted from any indemnity allowed for the loss. If such costs are so charged or deducted, the amount thereof shall accrue to the hail insurance fund.

§ 9. Amendment.) Section 26-22-52 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-22-52. Payment of Hail Losses—Deduction of Unpaid Hail Taxes—Certification of Deductions.) Warrants in payment of hail losses shall be drawn after the adjustments thereof are approved. The commissioner of insurance, through the manager of the state hail insurance department, shall draw such warrants on the state treasurer payable out of the state hail insurance fund, and the warrants shall be mailed by the department to the persons entitled thereto, or if the warrant is a joint warrant, to one of such persons. The warrants shall become due and payable immediately upon issue and shall draw no interest unless they are registered for lack of funds, in which event they shall draw interest at the rate of five percent per annum from the date of registration. Before writing such warrants, the commissioner shall deduct the current hail indemnity taxes if ascertained at the time, all unpaid hail indemnity taxes for prior years upon the lands covered by the policy as certified by the county auditor, and any other unpaid indemnity tax for which the insured is liable. If the hail indemnity taxes for the then current year are not determined when the payment of the indemnity is made, the commissioner shall deduct from the indemnity a sum which he considers sufficient to cover such tax. The commissioner shall certify all deductions made under the provisions of this section to the various county auditors, and the county auditors and county treasurers shall use such certification as authority for striking from the tax rolls the current or delinquent taxes which have been paid by deduction from the indemnity. Any amount deducted by the department in excess of the actual premium and other legal deductions shall be repaid to the claimant within a reasonable time after the hail indemnity tax rate has been determined. Any net indemnity of less than one dollar shall be paid to the claimant direct by postage stamps and a record of such payments shall be kept.

§ 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 7, 1963.

CHAPTER 228

S. B. No. 160
(Longmire, Lips)

AUTOMATIC BONDING FUND COVERAGE

AN ACT

To amend and reenact section 26-23-08 of the North Dakota Century Code, relating to automatic insurance of state and political subdivisions.

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

§ 1. **Amendment.)** Section 26-23-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-23-08. Automatic Insurance of State and Political Subdivisions.) The public employees of the state and each political subdivision thereof, as the case may be, shall be insured in the fund according to the provisions of this chapter upon application to the state bonding fund and upon approval by the commissioner of insurance. Unless an application is denied within sixty days from the date it is received by the state bonding fund, the application will be deemed approved and bond coverage in force. The provisions of this chapter and of any statute requiring a bond shall constitute the bond of each and every public employee for the purpose of any law of this state requiring such bond and shall constitute the entire contract between the fund and the state or its political subdivisions, respectively, as the obligee in any such bond.

Approved March 7, 1963.

CHAPTER 229

S. B. No. 144
(Longmire)

FIRE AND TORNADO INSURANCE COVERAGE

AN ACT

To amend and reenact sections 26-24-08 and 26-24-09 of the North Dakota Century Code, relating to reporting of public buildings to the commissioner of insurance, and providing for insurance on all public buildings.

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

§ 1. **Amendment.)** Section 26-24-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-24-08. Public Buildings To Be Reported to Commissioner of Insurance.) In each odd numbered year, or upon application for insurance, the board of administration, the state board of higher education, and each officer or agent of the state and of any industry thereof having in charge any public buildings of any kind whatsoever belonging to the state, and each county auditor, city auditor, township clerk, village clerk, and school district clerk, as the case may be, shall report to the commissioner the sound depreciated value of each public building and of the fixtures and permanent contents therein belonging to the state or political subdivision, and shall supply such other information as may be required by the commissioner on forms provided by him.

§ 2. **Amendment.)** Section 26-24-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-24-09. Commissioner to Provide Insurance on All Public Buildings.) Upon application the commissioner shall provide for insurance against loss by fire, lightning, inherent explosion, windstorm, cyclone, tornado and hail, explosion, riot attending a strike, aircraft, smoke, and vehicles, all in the manner and subject to the restrictions of the standard fire insurance policy and standard extended coverage endorsement, and no other hazards, in the fund, on all buildings owned by the state, state industries, and political subdivisions of the state, and the fixtures and permanent contents in such buildings, to the extent of not to exceed ninety percent of the full insurable value of such property, as such value is determined by the

commissioner and approved by the officer or board having control of such property, or, in case of disagreement, by approval through arbitration as hereinafter provided.

Approved March 4, 1963.

CHAPTER 230

S. B. No. 165
(Longmire, Lips)

FIRE AND TORNADO RATES AND ASSESSMENTS

AN ACT

To amend and reenact sections 26-24-13 and 26-24-14 of the North Dakota Century Code, relating to insurance assessments and construction insurance rate.

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

§ 1. **Amendment.)** Section 26-24-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-24-13. Assessments.) If the reserve fund shall have been depleted below the sum of twelve million dollars, the commissioner shall determine the amount of money which may be necessary to bring the said reserve fund up to the sum of twelve million dollars and he, thereupon shall levy an assessment against each and every policy in force with the fund on all public property. Said assessment shall be computed as follows:

The eighty percent or ninety percent co-insurance rate established by the Fire Underwriters Inspection Bureau for each insured property to which said eighty percent or ninety percent co-insurance rate may be applicable, and the full rate established for properties to which the said co-insurance rate is not applicable under the rules of the said Fire Underwriters Inspection Bureau, shall be applied to the amount of insurance provided in each policy and the result of the application of said rate to the amount of insurance shall set the tentative assessment to be made against such policy. The total of all such tentative assessments shall then be ascertained. The percentage of such assessment necessary to restore the reserve fund to the sum of twelve million dollars shall then be computed and collected on each policy, provided that until the reserve fund shall reach twelve million dollars, the assessment shall be in such amount as may be determined by the commissioner but in no

event in excess of fifty percent of the rates set by the Fire Underwriters Inspection Bureau unless the reserve fund shall be depleted below three million dollars. In case of a fractional percentage the next higher whole percent shall be used in such computation.

§ 2. **Amendment.)** Section 26-24-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-24-14. New Construction Insurance Rate.) Any property which shall not have been insured in the fund for a period of at least five years shall be charged a premium equal to fifty percent of the rate established by the Fire Underwriters Inspection Bureau. Any additional insurance shall be regarded as a new risk upon which premiums must be paid until such additional insurance has been in force for a period of five years. After any such property shall have been insured in the fund for a period of five years and the reserve fund is not up to twelve million dollars on August 1, 1947, it shall thereafter be charged a premium equal to twenty-five percent of such bureau rate. However, after the reserve fund is up to twelve million dollars and any property shall have been insured in the fund for a period of five years it shall thereafter be subject only to the assessment as provided in this chapter.

Approved March 9, 1963.

CHAPTER 231

S. B. No. 58
(Meidinger)

NONPROFIT DENTAL SERVICE CORPORATIONS

AN ACT

To create and enact chapter 26-27.1 of the North Dakota Century Code, to provide for the incorporation and regulation of voluntary nonprofit dental service corporations and to prescribe penalties for the violation of the provisions of this Act.

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

§ 1. **Purpose.)** It is the purpose and intent of the legislative assembly to make possible and facilitate a wider and more timely availability of dental care, thereby advancing the public health and the art and science of dentistry in this state.

§ 2. **Nonprofit Dental Service Corporations Authorized.)** Corporations may be organized under the laws of this state

on a strictly nonprofit basis for the purpose of establishing and putting into effect nonprofit dental service plans whereby dental services may be provided by a group of participating licensed dentists, with whom such corporation has contracted for such purpose, to such members of the public as become subscribers to said corporation under contracts which entitle such subscribers to certain specified dental care. Such corporation shall be subject to, and governed by the provisions of this Act and shall not be subject to the laws of the state relating to insurance and insurance companies, except as hereinafter specifically provided.

§ 3. Dental Services of Dentists Other Than Those Participating Under Dental Service Plan Authorized.) The dental service plan put into effect by any corporation organized under the provisions of this Act may also provide for dental services to such subscribers by dentists other than those participating under the plan, subject to the approval of the governing body of such dental service corporation.

§ 4. Articles of Incorporation To Be Filed with Secretary of State—Copy of Articles To Be Filed with Insurance Commissioner.) Articles of incorporation of all nonprofit dental service corporations organized under the provisions of this Act, and all amendments thereto, shall be filed with the secretary of state, and a certified copy thereof shall be filed with the commissioner of insurance. Any dental service corporation that has heretofore incorporated under the laws of the state of North Dakota, and which is now operating such nonprofit dental service plan in this state, may file a copy of its articles of incorporation, with amendments thereto, with the commissioner of insurance and thereupon be subject to the provisions of this Act.

§ 5. Board of Directors.) The board of directors of such dental service corporation shall consist of not less than nine members, a majority of whom shall be licensed dentists who have contracted with such corporation to provide dental services to its subscribers. The original board of directors shall be appointed by the board of trustees of the North Dakota State Dental Association.

§ 6. Amount of Fund—Repayment.) No nonprofit dental service corporation shall enter into any contracts with any subscribers for dental care, appliances or supplies, nor secure any application therefor, unless there is actually available in the corporation, for working capital, the sum of not less than twenty-five thousand dollars; the sum contributed as the working capital of such corporation shall be repayable only out of the surplus earnings of such corporation after reserves

for incurred claims, unearned subscribers' payments and a reasonable amount for contingencies have been provided, and approved by the insurance commissioner.

§ 7. Annual Statement.) Every corporation organized under the provisions of this Act shall annually on or before the first day of March, file in the office of the commissioner of insurance, a verified statement signed by two or more of its principal officers, showing the condition of its affairs on the thirty-first day of December last past, which statement shall be in such form and shall contain such information as the commissioner of insurance shall prescribe.

§ 8. Investigation and Examination.) The commissioner of insurance or any deputy examiner, or other person designated by him for such purpose, shall have the authority to inspect and examine into the affairs of such corporation and shall have the authority and power to examine all books, papers, records, letters, and documents of any kind that relate to the business of such corporation, and may subpoena and qualify witnesses under oath to examine its officers, agents, employees or any other persons having knowledge of the affairs, transactions and conditions of such corporation. In the event that any person shall fail or refuse to appear at the time and place designated in such subpoena, the insurance commissioner shall have the authority to apply to a judge of the district court in and for the county in which such corporation has its principal place of business for an order citing said witness to appear before such court at such time and place as the court may direct, and said district court is hereby given the authority and jurisdiction to cause such witness to be examined as the said court now has in the examination of witnesses in any manner pending before the said court.

§ 9. Contracts with Dentists—Contract Limitation—Benefits May Be Limited.) Every dentist duly licensed and registered in the state of North Dakota shall have the right to contract with any corporation organized and doing business under the provisions of this Act for furnishing general or special dental care as the case may be. A nonprofit dental service corporation shall impose no restrictions as to the methods of diagnosis or treatment on the dentists who treat subscribers. The private relationship of dentist and patient shall be maintained at all times and the subscriber shall have the right of free choice in selecting any dentist with whom the corporation has a contract.

No dental service contract by or on behalf of any such nonprofit dental service corporation shall provide the payment of any cash indemnification by the corporation to the subscriber or his estate on account of death, illness or other injury.

Such dental service corporation may, in its discretion, by its articles of incorporation or its bylaws, and in its contract with its subscribers, limit the benefits that such corporation will furnish, and may provide for a division of such benefits as it shall agree to furnish into classes or kinds. In the absence of any such limitations or division of services, a nonprofit dental service corporation shall be authorized to provide both general and special dental care benefits, including such service as may necessarily be incident to such dental care. A dental service corporation organized and doing business under the provisions of this Act may, in its discretion, limit the issuance of contracts as specified in its bylaws.

§ 10. Dissolution or Merger.) The dissolution, liquidation or merger of any dental service corporation organized and doing business under the provisions of this Act shall be conducted under the supervision of the commissioner of insurance, who shall have all the authority and power with respect thereto which is granted to him under the insurance laws of this state.

§ 11. Effects of Contracts.) The issuance of a contract by any corporation organized and doing business under the provisions of this Act to a subscriber shall not be deemed to create the relationship of dentist and patient between the corporation and such subscriber. The subscriber shall at all times have the right to select any participating dentist, subject to the terms and conditions of such contract. No employee, agent, officer or member of the board of directors of any such corporation shall influence or attempt to influence any subscriber in the choosing and selecting of the dentist who is to treat him. No action at law or in equity arising out of the relationship of dentist and patient shall be maintained against any nonprofit dental service corporation governed by this Act.

§ 12. Limitations on Contract.) Every subscriber under such nonprofit dental service plan shall receive a copy of the contract, and such contract shall clearly state the dental care, appliances and supplies to be provided under such contract and the rate charged such subscriber. Every subscriber shall have, at all times, free choice of the dentist who is to treat him, and such right shall be prominently printed in such contract. No nonprofit dental service corporation shall enter into any contract, agreement or understanding, directly or indirectly, with any dentist whereby such dentist shall render any services to any subscriber, but all such matters shall be a matter of agreement directly between the patient and the dentist selected by the patient to treat him.

§ 13. Filing of Contracts—Approval of Contracts.) No nonprofit dental service corporation shall enter into any contracts

with any subscribers for dental care, appliances and supplies, nor secure any applications therefor, unless it has filed not less than three copies of each type of contract proposed to be issued by said corporation with the commissioner of insurance, and the commissioner of insurance shall have approved of the same in writing directed to the corporation filing the same, with a copy of such approval in writing attached to each copy filed with said commissioner of insurance.

§ 14. Service in Accordance with Prevailing Practice—Emergency Service.) All dental care rendered to a subscriber under his contract shall be in accordance with the accepted standards of dental practice prevailing in the community in which such service is rendered.

All such dental service shall be rendered by dentists duly licensed and registered to practice their profession in the state of North Dakota, except that in case of emergency, and subject to the approval of the governing body of such non-profit dental service corporation, the benefits to which a subscriber is entitled under his contract may be rendered in another state, provided such services are rendered by a duly licensed dentist in such other state.

§ 15. Corporation Forbidden to Practice.) Nothing in this Act shall authorize any person, association or corporation to engage, in any manner, directly or indirectly, in the practice of dentistry as defined by law.

§ 16. Investment of Funds.) The funds of any corporation subject to the provisions of this Act shall be invested only in such securities as are provided by law for the investment of funds of domestic insurance companies of this state.

§ 17. Dental Aid for Needy Persons—Payments.) Every nonprofit dental service corporation organized and doing business under the provisions of this Act may, in its discretion, receive and accept from various governmental agencies payments covering all or any part of the costs of subscriptions to provide dental care for needy persons. Every such corporation may, in its discretion, receive from private agencies, corporations, associations, groups or individuals payments covering all or any part of the cost of subscriptions to provide dental care for needy and other persons.

§ 18. Licensing of Sales Representatives.) The sales representatives of any corporation subject to the provisions of this Act shall be subject to the laws pertaining to insurance agents as defined in chapter 26-17 of the North Dakota Century Code, where applicable. The license or certificate for such sales representatives shall be issued on a form as prescribed by

the commissioner of insurance, and the fee therefor shall be two dollars.

§ 19. Applicability.) Except as otherwise specifically provided in this Act, the provisions of chapters 10-24, 10-25, 10-26 and 10-28 of the North Dakota Century Code shall apply to the incorporation, operation and control of any nonprofit dental service corporation organized under the provisions of this Act, including penalties for violations of this Act or violations of said chapters 10-24, 10-25, 10-26, and 10-28 of the North Dakota Century Code.

Approved March 8, 1963.

CHAPTER 232

H. B. No. 874

(Goebel, Lindberg, Loder)

INSURANCE VENDING MACHINES

AN ACT

Relating to insurance and providing for licensing of sale of insurance by vending machines and other media, and for certain penalties.

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

§ 1. Sale of Insurance from Vending Machines Regulated.)

No insurance shall be offered for sale, issued, or sold by or from any vending machine or appliance or any other medium, device, or object designed or used for vending purposes, herein called a device, except as provided in this Act.

§ 2. Resident Insurance Agents Licensed by Insurance Commissioner May Issue or Sell Insurance Through Vending Machines Under Certain Conditions.) Resident insurance agents licensed by the insurance commissioner under title 26 of the North Dakota Century Code to solicit applications for and to sell policies of personal travel accident insurance providing benefits for accidental bodily injury or accidental death may also solicit applications for and issue or sell such insurance by means of devices supervised by them and placed in locations for the convenience of the traveling public, upon the following conditions only:

1. That each policy to be sold by or from a device is reasonably suited for sale and issuance through a device, and that use of such device therefor in a particular proposed location would be of material convenience to the traveling public;
2. That the type of device proposed to be used is reasonably suitable and practical for the purpose;

3. That reasonable means, as determined by the commissioner, are provided for informing the prospective purchaser of any such policy of the benefits, limitations, and exclusions of the policy, the premium rates therefor, the name and address of the agent, and the name and home office address of the insuring company;
4. That such device shall be so constructed and operated that it shall retain, or shall be provided with a suitable place for deposit and safekeeping of, a copy of the application, which shall show the date of the application, name and address of the applicant and the beneficiary, and the amount of insurance;
5. That no policy of insurance sold by or from a device shall be for a period of time longer than the duration of a specified one-way or round trip of not to exceed one hundred and eighty days;
6. That such device shall have provided on it or immediately adjacent thereto, in a prominent location, adequate envelopes for use of purchasers in mailing policies vended through such device, or that the policy itself, if designed to permit such procedure, may be mailed without an envelope; provided, however, the commissioner may in writing delivered to the agent modify or waive these requirements;
7. That each such device shall be supervised, inspected, and tested by the agent with such frequency as may reasonably be required by the commissioner, and should any device not be in good working condition the agent shall promptly cause a notice to be displayed thereon that the same is out of order, and cause said device to be promptly removed from service until it is in proper working order;
8. That prompt refund by the agent is provided to each applicant or prospective applicant of money deposited in any defective device and for which no insurance, or a less amount than paid for, is actually received; and
9. In addition to, and without limiting the general powers of the commissioner to regulate and supervise insurance business in this state, the commissioner may establish such other and additional rules and regulations for types and locations of devices authorized hereunder, their maintenance and operation, and the methods to be used by the agent in the solicitation and sale of insurance by means of such devices as shall be reasonable and necessary.

§ 3. Licensing of Vending Machine Devices — Expiration Date.) The application for a license for each device to be

used shall be made by the agent in such form and with such information as shall be prescribed by the commissioner. A fee of two dollars for each device shall be paid at the time of making application. Upon approval of the application the commissioner shall issue to the agent a special vending machine license. The license shall apply to a specific device or to any device of identical type which, after written notice by the agent to the commissioner, is substituted for it. The license shall specify the name and address of the agent, the name and home office address of the insuring company, the name or other identifying information of the policy or policies to be sold, the serial number or other identification of the device and the address, including the location on the premises, where the device is to be in operation; provided, however, that a device for which a license has been issued for operation at a specific address may be transferred to a different address during the license year upon written notice to the commissioner at the time of such transfer. The license for each device shall expire April thirtieth of each year, but may be renewed from year to year by the commissioner upon approval of the application of the agent and the furnishing of such information as shall be requested by the commissioner, and the payment of two dollars for each license year or part thereof for each device. Proof of the existence of a subsisting license shall be displayed on or about each device in use in such manner as the commissioner may reasonably require.

§ 4. Refusal to Issue License and Revocation of License—Notice and Opportunity To Be Heard.) The license for each device shall be subject to expiration, suspension, or revocation coincidentally with that of the agent or the insuring company. The commissioner also may suspend, revoke, or refuse to renew the license as to any device concerning which he finds any conditions upon which the device was licensed or referred to in section 2 have been violated, or no longer exist, or that the device is being used or operated by the agent in violation of the laws of this state; provided, that before suspending, revoking, or refusing to renew a license for a device, the commissioner shall conduct a hearing in the manner prescribed in section 26-17-04 and shall make his determination upon the basis of the standards, conditions, and requirements of this section. An order of the commissioner may be reviewed by an aggrieved person as provided in section 26-17-05.

§ 5. Penalty.) Any person or insurance or surety company which shall 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 fifty dollars nor more than five hundred dollars.

Approved March 15, 1963.

JUDICIAL BRANCH OF GOVERNMENT

CHAPTER 233

S. B. No. 221

(Chesrown, Reichert, Longmire)

COURT REPORTERS' SALARIES

AN ACT

To amend and reenact sections 27-06-02 and 27-06-03 of the North Dakota Century Code, relating to salary, expenses and duties of court reporters.

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

§ 1. **Amendment.)** Section 27-06-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-06-02. Salary and Expenses of Court Reporter.) Each court reporter shall receive a salary not to exceed seven thousand dollars per annum, payable in equal monthly installments by the counties constituting the judicial district in which such reporter is employed. Such salary shall be set by each district court judge involved and shall be apportioned according and in proportion to the number of suits entered and commenced in the district court of the respective counties of such district in the preceding year. The presiding judge of each judicial district, on the first day of January of each year, or as soon thereafter as may be, shall apportion the amount of such salary to be paid by each county in his district on the basis aforesaid, and the county auditors of the respective counties in such judicial district shall issue to the order of such court reporter a warrant for the amount shown to be due by such apportionment. As reimbursement for expenses incurred in the performance of official duties outside of the county where the district court chambers are situated, the court reporter shall receive expense allowances in accordance with the provisions of section 44-08-04. Such sums shall be paid monthly by the county wherein such court reporter is attending to such official duties, when approved by the board of county commissioners. Claims for transportation expenses shall not exceed the amounts provided by section 54-06-09 and shall be in itemized form showing the mileage traveled, the days when and how traveled, and the purposes thereof, and verified by affidavit. No claim for living expenses or transportation

shall be approved for payment to a court reporter by the board of county commissioners unless such claim shall have been first approved by the district judge.

§ 2. **Amendment.**) Section 27-06-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-06-03. Duties of District Court Reporters.) Each district court reporter shall attend the district court sessions within or without the district whenever the judge appointing him shall so direct and shall take in shorthand all testimony given orally by the witnesses, all objections and rulings made and exceptions taken, any instructions given orally by the court, and all other proceedings at the hearing or trial not otherwise reduced to writing. District court reporters shall perform such other duties as the appointing district court judge may designate.

Approved March 9, 1963.

CHAPTER 234

S. B. No. 352

(Wartner, Longmire, Holand, Brooks, Lips, Sinner, Baker)

COUNTY JUDGES' SALARIES

AN ACT

To amend and reenact section 27-08-08 of the North Dakota Century Code, relating to salaries of judges of county courts of increased jurisdiction.

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

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

27-08-08. Salaries of Judges of County Courts of Increased Jurisdiction—Amount, Payment.) A county judge of a county court of this state having increased jurisdiction, for all services rendered in any capacity, shall receive the following salary: seventy-five hundred dollars in counties having a population not exceeding fifteen thousand inhabitants; eighty-four hundred dollars in counties having a population exceeding fifteen thousand inhabitants but not exceeding forty thousand inhabitants; and ninety-seven hundred dollars in counties having a population exceeding forty thousand inhabitants. Such salary shall be payable by the county in equal monthly installments.

Approved March 21, 1963.

CHAPTER 235

S. B. No. 233
(Holand)

FORCIBLE DETAINER SUMMONS

AN ACT

To amend and reenact subsection 2 and to create and enact subsection 10 of section 27-08-24 of the North Dakota Century Code, to provide that in actions of forcible detainer arising in counties having courts of increased jurisdiction a three-day notice to quit shall be required, that the time specified in the summons for the appearance of the defendant shall not be less than three nor more than fifteen days from the date on which it is issued and providing for a time when such process shall be served.

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

§ 1. Amendment.) Subsection 2 of section 27-08-24 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. The summons in any action in a county court having increased jurisdiction, except in actions for forcible detainer, shall require the defendant to answer within twenty days after the service of the summons, exclusive of the day of service, and the answer thereto shall be served accordingly;

§ 2.) Subsection 10 of section 27-08-24 of the North Dakota Century Code is hereby created and enacted to read as follows:

10. In any action for forcible detainer the time specified in the summons for the appearance of the defendant shall be not less than three nor more than fifteen days from the date on which it is issued. In all cases arising under subsections 4, 5, and 6 of section 33-06-01, three days' written notice to quit must be given to the lessee, subtenant, or party in possession, before proceedings can be instituted. Such notice may be served and returned as a summons is served and returned. Service by delivery of a copy of the summons to the defendant in person within the county must be made at least three days before the time fixed for the appearance of the defendant. Service elsewhere or personal service in any other mode must be made at least seven days before the time fixed for the appearance of the defendant.

Approved March 9, 1963.

CHAPTER 236

H. B. No. 619
(Leahy)

ATTORNEY ADMISSION FEES

AN ACT

To amend and reenact section 27-11-17 of the North Dakota Century Code, relating to fees payable by all applicants for admission to bar and disposition of fees.

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

§ 1. **Amendment.)** Section 27-11-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-11-17. Fee Payable by All Applicants for Admission to Bar—Disposition of Fees.) The state bar board shall receive a fee of twenty dollars from each applicant for admission to the bar of this state who submits to examination by the state bar board and shall receive a fee of one hundred dollars from each applicant for admission to the bar of this state who seeks admission upon motion in accordance with the provisions of sections 27-11-25 and 27-11-26. All such fees received shall be deposited with the state treasurer who shall credit said deposits to the state bar fund.

Approved March 5, 1963.

CHAPTER 237

H. B. No. 607
(Stockman)

ATTORNEY LICENSE FEES

AN ACT

To amend and reenact section 27-11-22 of the North Dakota Century Code, relating to annual licenses to practice law—requirement—issuance—fees.

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

§ 1. **Amendment.)** Section 27-11-22 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-11-22. Annual Licenses to Practice Law—Requirement—Issuance—Fees—Exception.) Every person who has an un-

revoked certificate of admission to the bar of this state and who desires to engage in the practice of law therein, on or before the first day of January of each calendar year, shall secure an annual license to practice from the state bar board. Such license shall be issued by the secretary-treasurer of such board upon payment of a fee of forty dollars and shall be good for one year from and after the first day of January of the year for which it is issued except that every person who has an unrevoked certificate of admission to the bar of this state, dated one year or less prior to date of application for license, and who maintains a residence outside this state and who does not engage in the practice of law in this state, shall have such license issued upon the payment of a fee of twenty dollars.

Approved March 13, 1963.

CHAPTER 238

H. B. No. 620
(Leahy)

ADMISSION OF NONRESIDENT ATTORNEYS

AN ACT

To create and enact subsection 6 of section 27-11-25 of the North Dakota Century Code, relating to attorneys admitted to bar in other states admitted without examination.

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

§ 1.) Subsection 6 of section 27-11-25 of the North Dakota Century Code is hereby created and enacted to read as follows:

6. Has made payment of fees as required by the provisions of section 27-11-17.

Approved March 5, 1963.

CHAPTER 239

H. B. No. 606
(Stockman)

STATE BAR FUNDS

AN ACT

To amend and reenact section 27-12-04 and section 27-12-06 of the North Dakota Century Code, relating to moneys payable from the state bar fund to the state bar association and method of expenditures of association's funds and annual report of receipts and disbursements, and declaring an emergency.

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

§ 1. **Amendment.)** Section 27-12-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-12-04. Moneys Payable from State Bar Fund to State Bar Association.) The state bar association of North Dakota, out of the state bar fund, annually shall receive seventy-five percent of the annual license fees paid by licensed members, for the purpose of paying for the printing and distribution of the annual report and proceedings of said association and for the payment of other necessary expenses of the association. Such sum shall be paid quarterly into the treasury of the said association by the secretary-treasurer of the state bar board upon vouchers drawn by the president and secretary-treasurer of said association.

§ 2. **Amendment.)** Section 27-12-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-12-06. Method of Expenditure of Association's Funds—Annual Report of Receipts and Disbursements.) Expenditures of funds from the state bar association of North Dakota fund shall be approved by the president and executive director of said association upon vouchers signed by them. Moneys shall be paid from said fund upon the warrant or order of the secretary-treasurer of such association. The secretary-treasurer of said association, in addition to the duties imposed upon him by the constitution, bylaws, and rules of the association, annually shall file in the office of the secretary-treasurer of the state bar board an itemized statement of the receipts and disbursements of said association.

§ 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, 1963.

CHAPTER 240

H. B. No. 659

(Fitch)

JUVENILE COMMISSIONERS' SALARIES

AN ACT

To amend and reenact section 27-16-03 of the North Dakota Century Code, relating to compensation of juvenile commissioners.

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

§ 1. Amendment.) Section 27-16-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-16-03. Juvenile Commissioners — Compensation.) Each juvenile commissioner shall receive as full compensation for his services such amount as may be fixed and approved from time to time by a judge of the juvenile court, either upon a per diem basis not to exceed ten dollars per day for the time actually and necessarily employed in the discharge of his official duties, or upon a salary basis. In no event shall the salary paid the said juvenile commissioner exceed eight thousand dollars per annum, if paid on a salary basis. In addition thereto, the juvenile commissioner shall be paid the reasonable travel expenses for mileage and subsistence necessarily incurred in the discharge of his official duties, in accordance with the amount allowed to county officials. The salary or per diem or travel expenses as the case may be, shall be paid by the county for which he is appointed or shall be apportioned by the judge among the several counties of the judicial district as are served by such juvenile commissioner. Such compensation shall be paid monthly by the county treasurer of the respective counties upon properly verified claims and upon approval of the judge as other claims against the county are allowed and paid.

Approved March 4, 1963.

CHAPTER 241

S. B. No. 347
(Becker, Longmire)

JUDICIAL RETIREMENT

AN ACT

To amend and reenact subsections 4 and 5 of section 27-17-01 of the North Dakota Century Code Supplement, relating to retirement of supreme court judges and district court judges.

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

§ 1. **Amendment.)** Subsections 4 and 5 of section 27-17-01 of the North Dakota Century Code Supplement is hereby amended and reenacted to read as follows:

4. The judicial retirement salary payable under this section shall be paid to the retired judge during the remainder of his natural life and shall be paid by the director of accounts and purchases, within thirty days after receiving application therefor, in the same manner as salaries are paid to judges of the district court and judges of the supreme court, except that judicial retirement salaries shall not be subject to judicial retirement assessment.

5. In lieu of receiving the judicial retirement salary otherwise payable under this chapter, the judge, at any time after having attained retirement age, may irrevocably elect to receive judicial retirement salary according to one of the following optional modes of payment:

- a. First Option. Three-fourths of his judicial retirement salary payable to him alone until he dies and thereafter one-half of such amount payable to his widow upon her attaining sixty-two years of age and until she remarries or until she dies.
- b. Second Option. Two-thirds of his judicial retirement salary payable to him alone until he dies and thereafter a like amount payable to his widow upon her attaining sixty-two years of age and until she remarries or until she dies.
- c. Third Option. One-half of his judicial retirement salary payable to him until he dies and a like amount payable to his wife upon her attaining sixty-two years of age and so long as she continues to be his wife or unremarried widow.

The election of one of the foregoing optional modes of payment shall be made in the application for payment of

judicial retirement salary, or by written declaration of such election, signed by the judge and delivered to the director of accounts and purchases. In the event the judge shall have elected an optional mode of payment and dies without having made application for judicial retirement salary, the judicial retirement salary payable to his widow according to his option shall be payable to her in the same manner as if he had made application for judicial retirement salary. In the event that a judge entitled to retirement pay shall die without having elected an optional mode of payment, his widow shall be entitled to payments as provided by the first option as set forth in subsection 5a of this section. Judicial retirement salary payable according to one of the foregoing optional modes of payment shall be paid in like manner as the full judicial retirement salary is paid. Any judge who retired prior to the effective date of the amendment to this section as provided for in chapter 222 of the 1961 session laws, and otherwise eligible for the optional modes of payment herein provided for, may apply for one of the optional modes of payment by written declaration to the director of accounts and purchases, provided, however, such judge shall repay to the state treasury the amount of money he has drawn since the date of his retirement in excess of what he would have drawn if he had chosen the optional mode of payment now applied for at the date of his retirement.

Approved March 8, 1963.

CHAPTER 242

S. B. No. 30

(Legislative Research Committee)
(From LRC Study)

INDIAN CIVIL JURISDICTION

AN ACT

Providing for the acceptance of civil jurisdiction over civil causes of action arising in Indian country and providing limitations thereon and for withdrawal.

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

§ 1.) In accordance with the provisions of Public Law 280 of the 83rd Congress and section 203 of the North Dakota Constitution, jurisdiction of the state of North Dakota shall be extended over all civil causes of action which arise on an Indian reservation upon acceptance by Indian citizens in a manner provided by this section. Upon acceptance the juris-

diction of the state shall be to the same extent that the state has jurisdiction over other civil causes of action, and those civil laws of this state that are of general application to private property shall have the same force and effect within such Indian reservation or Indian country as they have elsewhere within this state.

§ 2.) Acceptance of jurisdiction may be by either of the following methods:

1. Upon petition of a majority of the enrolled residents of a reservation who are twenty-one years of age or older; or
2. The affirmative vote of the majority of the enrolled residents voting who are twenty-one years of age or older, at an election called and supervised by the North Dakota Indian affairs commission upon petition of fifteen percent of those eligible to vote at such an election.

§ 3.) Upon acceptance of civil jurisdiction by either method provided in section 2 the executive director of the Indian affairs commission shall certify such acceptance to the governor. Upon such certification the governor shall, within ten days, issue a proclamation proclaiming that thirty days from the date of the issuance of such proclamation the provisions of this Act shall be in effect.

§ 4.) The provisions of this Act shall affect only those causes of action which arise after the effective date of state jurisdiction as provided in section 3.

§ 5.) An individual Indian may accept state jurisdiction as to himself and his property by executing a statement consenting to and declaring himself and his property to be subject to state civil jurisdiction as herein provided. Such jurisdiction shall become effective on the date of execution of such statement. The statement accepting state jurisdiction shall be filed in the office of the county auditor of the county in which the person resides and when so filed shall be conclusive evidence of acceptance of state civil jurisdiction as provided herein.

§ 6.) A guardian appointed by the tribal court or court of Indian offenses may consent to state civil jurisdiction for his ward provided he is authorized to do so by the tribal court or court of Indian offenses.

§ 7.) In addition to other authority conferred by this Act, the courts of this state shall have the power to hold persons in civil or criminal contempt of court in order to maintain the dignity of the courts and enforce their orders.

§ 8.) Nothing in this section shall authorize the alienation, encumbrance, or taxation of any real or personal property belonging to any Indian or Indian tribe, band, or community that is held in trust by the United States or is subject to a restriction against alienation imposed by the United States; or shall authorize regulation of the use of such property in a manner inconsistent with any federal treaty, agreement, or statute, or with any regulation made pursuant thereto; or shall confer jurisdiction upon the state to adjudicate, in probate proceedings or otherwise, the ownership or right to possession of such property or any interest therein. The civil jurisdiction herein accepted and assumed shall include but shall not be limited to the determination of parentage of children, termination of parental rights, commitments by county mental health boards or county judges, guardianship, marriage contracts, and obligations for the support of spouse, children, or other dependents.

§ 9.) Any tribal ordinance or custom heretofore or hereafter adopted by any Indian tribe, band, or community, in the exercise of any authority which it may possess shall, if not inconsistent with the applicable civil law of this state, be given full force and effect in the determination of civil causes of action pursuant to this section.

§ 10.) The provisions of this Act shall not be construed as requiring the extension of any health, welfare, educational or other governmental service to Indian reservations or Indian country, not otherwise required by the laws or Constitution of this state.

§ 11.) Civil jurisdiction as herein provided over an Indian reservation may be terminated by petition of three-fourths of the enrolled residents of a reservation who are twenty-one years of age or older. Such petition shall be filed with the North Dakota Indian affairs commission.

§ 12.) Upon the filing of a petition for withdrawal from the civil jurisdiction of the state, the executive director of the North Dakota Indian affairs commission after substantiating that the provisions of section 11 have been complied with shall certify such withdrawal to the governor. Upon such certification the governor shall, within ten days, issue a proclamation proclaiming that thirty days from the date of the issuance of such proclamation the civil jurisdiction of the state shall be terminated except as to those causes of action which arose prior to the effective date of such termination or to those contractual obligations which were incurred prior to the effective date of such termination of state civil jurisdiction.

§ 13.) An individual who has accepted state civil jurisdiction under the provisions of section 5 may withdraw upon

filing with the county auditor a statement declaring his withdrawal. Such withdrawal shall not affect causes of action which arose prior to such withdrawal or contractual obligations which were incurred prior to such withdrawal.

Approved March 2, 1963.

JUDICIAL PROCEDURE, CIVIL

CHAPTER 243

S. B. No. 75
(Longmire, Reichert)

VENUE IN VEHICLE ACCIDENT CASES

AN ACT

To create and enact section 28-04-03.1 and to amend and reenact section 28-04-05 of the North Dakota Century Code, providing for the venue in court actions arising out of the negligent operation of a motor vehicle.

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

§ 1.) Section 28-04-03.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

28-04-03.1. Venue in Motor Vehicle Cases.) An action against the owner or driver of any motor vehicle arising out of and by reason of the negligent driving, operation, management, or control of such motor vehicle may be brought either in the county where such action arose, in the county of the residence of the defendant, or in the county of the residence of the majority of the defendants. In any event the venue of the action shall not be changed unless by order of the court pursuant to section 28-04-07.

§ 2. **Amendment.)** Section 28-04-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

28-04-05. Actions Having Venue Where Defendant Resides.) In all other cases, except as provided in section 28-04-03.1, and subject to the power of the court to change the place of trial as provided by statute, the action shall be tried in the county in which the defendant or one of the defendants resides at the time of the commencement of the action. If such county is attached to another county for judicial purposes, the action shall be tried in the latter county. If none of the defendants shall reside in the state, the action shall be tried in the county which the plaintiff shall designate in the summons.

Approved March 18, 1963.

JUDICIAL PROCEDURE, CRIMINAL

CHAPTER 244

S. B. No. 219

(Chesrown, Reichert, Longmire)

EVIDENCE IN DECIDING PUNISHMENT

AN ACT

To amend and reenact section 29-26-18 of the North Dakota Century Code, relating to evidence in aggravation or mitigation of punishment.

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

§ 1. **Amendment.)** Section 29-26-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

29-26-18. Evidence in Aggravation or Mitigation of Punishment—How Presented.) Circumstances in aggravation or mitigation of punishment must be presented by testimony of witnesses examined in open court, except (1) when a witness is so sick or infirm as to be unable to attend, his deposition may be taken by a magistrate of the county out of court, at a specified time and place, upon such notice to the adverse party as the court may direct, (2) the criminal record of the defendant furnished by the federal bureau of investigation or the state superintendent of criminal identification and reports of the state parole office may be received by the court without verification or other foundation, and, (3) results of psychological testing and psychiatric examination, certified in writing may be received by the court without verification or other foundation, subject to such inspection and confrontation of witnesses as the court may permit or require in the interests of justice.

Approved March 5, 1963.

JUDICIAL PROCEDURE, PROBATE

CHAPTER 245

H. B. No. 710
(Leahy, Aamoth)

INVESTMENT OF TRUST FUNDS

AN ACT

To amend and reenact section 30-14-19 of the North Dakota Century Code, providing for the investment of trust funds held by guardians.

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

§ 1. **Amendment.**) Section 30-14-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

30-14-19. Investment of Funds.) No guardian shall invest funds of the guardianship estate unless authorized to do so by an order made and entered in the county court of the county in which such guardian was appointed, except that such guardian may invest without liability in bonds of the state of North Dakota and bonds of the United States of America, and except that a bank or trust company organized under the laws of the state of North Dakota or of the United States of America when serving as a guardian may invest the funds of the guardianship in accordance with the provisions of section 6-05-15 and section 6-05-15.1 of the North Dakota Century Code without first obtaining an order from the county court.

Approved March 9, 1963.

CHAPTER 246

S. B. No. 155
(Brooks, Holand, Reichert)

PERFORMANCE OF DECEDENT'S CONTRACT

AN ACT

To amend and reenact section 30-14-24 of the North Dakota Century Code, relating to the execution of conveyance on behalf of minors, spendthrifts, habitual drunkards, and incompetents.

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

§ 1. **Amendment.)** Section 30-14-24 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

30-14-24. Guardian to Perform Decedent's or Incompetent's Contract to Convey Real Estate.) If a person who is bound by a contract in writing to convey any real estate dies before making the conveyance, and if such real estate or the interest of the decedent therein or any part thereof shall have passed by inheritance or devise to any minor, spendthrift, habitual drunkard, or incompetent person, or if a person who is bound by a contract in writing to convey any real estate or interest therein shall, subsequent to contracting, become incompetent, the county court may make a decree authorizing and directing the guardian of such minor, spendthrift, habitual drunkard, or incompetent to convey such real estate to the person entitled thereto in all cases in which the decedent, if living, or the incompetent, if not incompetent, might be compelled to make such conveyance. In such case the procedure to secure such decree, so far as applicable, shall be the same as that prescribed in sections 30-13-12, 30-13-13, and 30-13-14.

Approved March 5, 1963.

JUDICIAL PROOF

CHAPTER 247

H. B. No. 578
(Leahy, Aamoth)

PHOTOGRAPHIC COPIES AS EVIDENCE

AN ACT

To amend and reenact section 31-08-01.1 of the North Dakota Century Code, relating to the admissibility of photographic copies of business and public records into evidence.

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

§ 1. **Amendment.**) Section 31-08-01.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

31-08-01.1. Photographic Copies of Business and Public Records Admissible in Evidence.) If any business, institution, member of a profession or calling, or any department or agency of government, in the regular course of business or activity has kept or recorded any memorandum, writing, entry, print, representation or combination thereof, of any Act, transaction, occurrence or event, and in the regular course of business has caused any or all of the same to be recorded, copied or reproduced by any photographic, photostatic, microfilm, micro-card, miniature photographic, or other process which accurately reproduces or forms a durable medium for so reproducing the original, the original may be destroyed in the regular course of business unless its preservation is required by law. Such reproduction, when satisfactorily identified, is as admissible in evidence as the original itself in any judicial or administrative proceeding whether the original is in existence or not and an enlargement or facsimile of such reproduction is likewise admissible in evidence if the original reproduction is in existence and available for inspection under direction of court. The introduction of a reproduced record, enlargement or facsimile, does not preclude admission of the original.

Approved March 5, 1963.

§ 2. Amendment.) Section 32-09-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

32-09-15. Affidavit When Liability Admitted — Question May Be Submitted to Court.) Unless the garnishee shall make the affidavit provided for in section 32-09-14, within twenty days after the service of the garnishee summons, he shall file and serve in like manner an affidavit in which he shall state:

1. Whether at the time of service of the garnishee summons he was or since has become indebted, or under any liability, to the defendant named in the garnishee summons, in any manner upon any account, specifying, if indebted or liable, the amount, the interest thereon, the manner in which evidenced, when payable, whether in absolute or contingent liability, and all the facts and circumstances necessary to a complete understanding of such indebtedness or liability. When the garnishee shall be in doubt respecting any such liability or indebtedness, he may set forth all the facts and circumstances concerning the same and may submit the question to the court;
2. Whether at the time of such service he held or at the time of making the affidavit holds, the title or possession of any real estate, or any interest in land of any description, or of any personal property, effects, or credits, or any instruments or papers relating to such, belonging to the defendant or in which he is in anywise interested. If he shall admit any such liability as garnishee or shall be in any doubt respecting the same, he shall set forth the description of such property and all the facts and circumstances concerning the same, and the title, interest, or claim of the defendant in or to the same;
3. If he shall claim any setoff or defense to any indebtedness or liability or any lien or claim to said property, he shall set forth the facts and circumstances thereof fully;
4. He may state any claim of exemption from execution on the part of the defendant, or other objection known to him against the right of the plaintiff to apply upon his demands the indebtedness or property disclosed; and
5. If he shall disclose any indebtedness, or the possession of any property to which the defendant, and any other persons as well, make claim, he may set forth the names and residences of such other claimants and so far as known the nature of their claims.

§ 3. **Amendment.)** Section 32-09-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

32-09-05. Service on Department of Accounts and Purchases—Fee.) Service upon the state of North Dakota, or any institution, department, or agency thereof, as garnishee, may be made upon the director of the department of accounts and purchases in the manner by law provided for such service in garnishment proceedings, except that the fee to be tendered and paid the department of accounts and purchases for making affidavit of disclosure and filing the same shall be three dollars. Such fees shall be paid into the state treasury.

Approved March 18, 1963.

CHAPTER 249

H. B. No. 639
(Stockman)

EMINENT DOMAIN COMPENSATION

AN ACT

To provide for the payment by a condemnor, or prospective condemnor, of the actual cost of moving personal property located on the property taken, or to be taken, at the time of taking of the real estate or possession thereof, and providing for a judicial determination of disputes as to moving expenses.

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

§ 1. **Eminent Domain—Compensation for Moving Personal Property.)** Whenever property is taken or is about to be taken under eminent domain, and the owner or former owner of such property has, at the time of the taking or of taking possession of the property, personal property located on it, he shall be compensated for the actual cost of moving such personal property to a new location within this state, selected by him, such cost to be evidenced by actual paid receipts to be produced to the condemning authority; provided, however, that such cost shall not exceed the value of the property to be moved. The amount therefor shall be paid directly to the owner or former owner by the condemning authority, and in case of inability to agree, either party may bring an action in the same court in which the condemnation action has been or might have been brought, for a judicial determination of the issues between the parties, or, the matter may be determined in the condemnation action itself.

Approved March 18, 1963.

CHAPTER 250

S. B. No. 330
(Chesrown, Wartner)

PARTITION OF PROPERTY

AN ACT

To amend and reenact sections 32-16-01 and 32-16-46 of the North Dakota Century Code, relating to partition of property.

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

§ 1. Amendment.) Section 32-16-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

32-16-01. When May Be Brought.) When several cotenants hold and are in possession of real or personal property as partners, joint tenants, or tenants in common, in which one or more of them have an estate or inheritance, or for life or lives, or for years, an action may be brought by one or more of such persons for a partition thereof according to the respective rights of the persons interested therein and for a sale of such property or a part thereof, if it appears that a partition cannot be made without great prejudice to the owners. Real and personal property may be partitioned in the same action.

§ 2. Amendment.) Section 32-16-46 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

32-16-46. Single Referee.) The court, with the consent of the parties or when the complaint petitions and prays for the appointment of a single referee and there is no objection thereto, may appoint a single referee instead of three referees in the proceeding under this chapter, and the single referee, when thus appointed, has all the powers and may perform all the duties of the three referees.

Approved March 6, 1963.

CHAPTER 251

S. B. No. 223
(Longmire)

FORECLOSURE OF UNRECORDED CONVEYANCE

AN ACT

Relating to the effect of foreclosure action upon unrecorded conveyance or lien and providing for conclusive judgment against holders thereof.

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

§ 1. Persons Holding Unrecorded Conveyance Need Not Be Made Parties, When.) In any action to foreclose a mortgage or other lien upon real property, no person holding a conveyance from or under the mortgagor of the property mortgaged, or other owner thereof, nor one having a lien upon such property, if such conveyance or lien does not appear of record in the proper office at the time of the commencement of the action, need be made a party to such action, and the judgment therein rendered and the proceedings therein had shall be as conclusive against the party holding such unrecorded conveyance or lien as if he had been made a party to the action.

Approved March 21, 1963.

JUSTICE COURT

CHAPTER 252

H. B. No. 695
(Burk)

COUNTY JUSTICE CRIMINAL JURISDICTION

AN ACT

To amend and reenact section 33-01-08 of the North Dakota Century Code, relating to the criminal jurisdiction of a county justice.

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

§ 1. **Amendment.)** Section 33-01-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

33-01-08. Criminal Jurisdiction of County Justice.) The jurisdiction and authority of county justices to prevent the commission of public offenses, to institute searches and seizures, to require the arrest and detention of persons charged with crime, to require and accept bail, and otherwise to act as magistrates in matters of crime, is prescribed by title 29, Judicial Procedure, Criminal. Each county justice has jurisdiction and authority coextensive with his county to hear, try, and determine all cases of misdemeanor arising from crimes committed in the county for which he is elected or appointed and every other criminal action in which jurisdiction is conferred specially by law.

Approved March 9, 1963.

CHAPTER 253

H. B. No. 696
(Burk)

COURT FEES

AN ACT

To create and enact section 33-01-23.1 of the North Dakota Century Code, relating to filing fees in civil actions in county justice court and fees for performance of marriage ceremonies by the county justice, and to amend and reenact section 33-01-23 of the North Dakota Century Code, relating to fees to be charged by police magistrates.

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

§ 1.) Section 33-01-23.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

33-01-23.1. County Justices Fees—Civil Actions—Marriage Ceremonies.) A county justice shall be entitled to charge and receive on behalf of the county a fee of three dollars for civil actions filed in county justice court and a fee of three dollars for performing a marriage ceremony.

§ 2. **Amendment.)** Section 33-01-23 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

33-01-23. Fees To Be Charged by Police Magistrate in Criminal Actions.) A police magistrate shall be entitled to charge and receive the following fees in criminal actions:

1. For issuing summons or warrant of arrest and all proceedings prior to trial, two dollars;
2. For entry of default judgment or sentence upon plea of guilty or order binding over on waiver, two dollars;
3. For trial of issue of fact or preliminary hearing, four dollars;
4. For issuing execution and all proceedings subsequent to entry of judgment, one dollar; and
5. For taking affidavit or acknowledgment other than in pending proceedings, twenty-five cents.

Approved March 9, 1963.

LABOR AND EMPLOYMENT

CHAPTER 254

H. B. No. 596
(Lowe)

PROHIBITED EMPLOYMENTS OF MINORS

AN ACT

To amend and reenact subsection 1 of section 34-07-16 of the North Dakota Century Code, relating to prohibited employments and occupations of minors.

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

§ 1. Amendment.) Subsection 1 of section 34-07-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Any employment involving the use of any power driven machinery; but this prohibition shall not apply to the use of (a) office machines, such as adding machines or typewriters; (b) tagging, pricing, or similar machines used in retail stores; (c) domestic-type machines used in food service operations, such as toasters, coffee grinders, milk shake blenders; or (d) machines used in service stations such as those in connection with car cleaning, washing, or polishing, or in the dispensing of gasoline or oil, provided, however, that no work may be done in connection with cars and trucks if such work involves the use of pits, racks, or lifting apparatus, or involving the inflation of any tire mounted on a rim equipped with removable retaining ring.

Approved March 5, 1963.

CHAPTER 255

S. B. No. 302
(Sinner)

LICENSING EMPLOYMENT AGENTS AND AGENCIES

AN ACT

To provide for the regulation of employment agents and employment agencies and providing a penalty.

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

§ 1. **Definitions.)** Unless the language or context clearly indicates that a different meaning is intended, the following words, terms, and phrases, for the purposes of this Act, shall be given the meanings subjoined to them:

1. The term "employment agent" or "employment agency" means any person, firm, corporation, or association in this state engaged for hire or compensation in the business of furnishing persons seeking employment or changing employment, with information or other service enabling or tending to enable such persons to procure employment, by or with employers, other than such employment agent; or furnishing any other person, firm, corporation, or association who may be seeking to employ or may be in the market for help of any kind, with information enabling or tending to enable such other person, firm, corporation, or association to procure such help.
2. The term "employer" means any person, firm, corporation, or association employing or seeking to enter into an arrangement to employ any person through the medium or service of an employment agent.
3. The term "employee" means any person, whether employed or unemployed, seeking or entering into any arrangement for employment or change of employment through the medium of service of an employment agent.

§ 2. **Licenses Required.)** No person, firm, corporation, or association shall open or carry on an employment agency in the state, unless such person, firm, corporation, or association shall first procure a license from the attorney general. Any person, firm, corporation, or association who shall open or conduct any such agency without first procuring a license, shall be guilty of a misdemeanor and punished by a fine of not less than \$25.00, and not more than \$100.00, or by imprison-

ment for a period not to exceed 90 days, or both, at the discretion of the court.

§ 3. Written Application Filed.) On or before July first of each year every applicant for a license shall file with the attorney general a written application stating the name and address of the applicant, the kind of license desired, the street and number of the building in which the employment agency is to be maintained, the name of the person who is to have the general management of the office, the name under which the business of the office is to be carried on, whether or not the applicant is pecuniarily interested in any other business of a like nature, and if so, where. Such application shall also state whether the applicant is the only person pecuniarily interested in the business to be carried on under the license, and shall be signed by the applicant and sworn to before a notary public. If the applicant is a corporation, the application shall state the names and addresses of the officers and directors of the corporation, and shall be signed and sworn to by the president and treasurer thereof. If the applicant is a partnership, the application shall also state the names and addresses of all partners therein, and shall be signed and sworn to by all of them. The application shall also state whether or not the applicant is, at the time of making application, or has at any previous time been, engaged or interested in, or employed by any one engaged in the business of conducting an employment agency, either in this state or any other, and if so, when and where. The application shall also give as reference the names and addresses of at least three persons of reputed business or professional integrity, located in the city or town where such applicant intends to conduct his business. Every applicant for a license to engage in the business of an employment agent shall, at the time of making application for said license, file with the attorney general a schedule of the fees or charges to be collected by such employment agent for any services rendered, together with all rules and regulations that may in any way affect the fees charged or to be charged for any service. Such fees and such rules or regulations may thereafter be changed by filing an amended or supplemental schedule showing such charges, with the attorney general. It shall be unlawful for any employment agent to charge, demand, collect, or receive a greater compensation for any service performed by him than is specified in such schedule filed with the attorney general.

It shall be the duty of the attorney general, and he shall have power, jurisdiction, and authority to issue licenses to employment agents, and to refuse to issue such license whenever, after due investigation, he finds that the character of the applicant makes him unfit to be an employment agent, or when

the premises for conducting the business of an employment agent are found upon investigation to be unfit for such use. Any such license granted by the attorney general may also be revoked by him upon due notice to the holder of said license, and upon due cause shown. Failure to comply with the duties, terms, conditions or provisions of this Act, or any lawful orders of the attorney general shall be deemed due cause to revoke such license.

§ 4. License—Fees.) All such licenses shall endure for a period of one year only, and annual fees therefor shall be paid as follows: Every employment agent engaged in placing female persons only in employment shall pay a license fee of \$75.00. Every employment agent engaged in placing male persons only in employment shall pay a license fee of \$100.00. Every employment agent placing both male and female persons shall pay a license fee of \$150.00. All license fees prescribed in this Act shall be paid to the chief clerk under the direction and supervision of the attorney general and by him shall be paid promptly to the state treasurer, who shall deposit all such moneys in the general fund of this state.

§ 5. Applicants to Furnish Bonds.) Every application for a license shall be accompanied by a bond in the penal sum of \$2,000.00, with one or more sureties or a duly authorized surety company, to be approved by the attorney general and filed in his office, conditioned that the agent will conform to and not violate any of the terms or requirements of this Act or violate the covenants of any contract made by such agent in the conduct of said business. Action on this bond may be brought by and prosecuted in the name of any person damaged by any breach or any condition thereof, and successive actions may be maintained thereon.

§ 6. Form and Contents of License.) After an application for a license has been granted, a license shall be issued to the applicant which shall state the name of the employment agent, and, if a corporation, the names of the officers, if a partnership, the names of the partners, the location of the office where the business is to be conducted, and the name of the person who is to be charged with the general management of the business. The license shall also be numbered and dated and state whether it is a class one, class two, or class three license, as provided in section 11.

§ 7. Duration of License.) Every license, unless previously revoked, shall remain in force until one year after its issue, and every employment agent shall, upon payment of the amount of the license fee required and the filing of a new bond, have issued to it a license for the ensuing year, unless

the attorney general shall refuse to do so for any of the reasons stated in this Act.

§ 8. Suspension or Revocation of License.) If the attorney general shall find that the employment agent has violated any of the provisions of this Act, or has acted dishonestly in connection with his business, or has improperly conducted his business, or that any other good and sufficient reason exists within the meaning and purpose of this Act, the attorney general may suspend or revoke his license, or refuse to grant a new license to the employment agent upon the termination thereof; but in any case no such action shall be taken until a written notice has been sent to the employment agent specifying the charges against him and he has been given a hearing, if he requests, and a reasonable opportunity to disprove or explain the charges.

§ 9. Transfer of License—Consent to Others Becoming Connected with Licensee.) No license granted under the terms of this Act shall be transferable, except with the consent of the attorney general. No employment agent shall permit any person not mentioned in the license to become connected with the business as a partner or as an active officer of a licensed corporation unless the consent of the attorney general shall first be obtained. Such consent may be withheld for any reason for which an original application for a license might have been rejected, if the person in question had been mentioned therein. If such consent is given, the names of the persons so becoming connected with the employment agency shall be endorsed upon the license and, if such license is renewed, shall be substituted for or added to the names of the persons originally mentioned therein.

§ 10. Places of Business.) No employment agent shall open, conduct, or maintain an employment agency at any other place than that specified in the license without first obtaining the consent of the attorney general. Such consent may be withheld for any reason for which an original application might have been rejected, if such place had been mentioned therein. If such consent is given, it shall be endorsed upon the license and, if such license is renewed, such other place shall be substituted for the place originally named in the license. So long as any employment agent shall continue to act as such under his license he shall maintain and keep open an office or place of business at the place specified in the license.

§ 11. Licenses Classified.) Licenses granted under the provisions of this Act shall be designated as class one, class two, or class three.

A class one license shall entitle the holder thereof to engage in a business of serving those seeking employment and those seeking employees as woodsmen, agricultural hands, coachmen, grooms, hostlers, seamstresses, cooks, waiters, waitresses, scrubwomen, laundresses, maids, and all domestics and servants, unskilled workers and general laborers.

A class two license shall entitle the holder thereof to engage in the business of serving those seeking employment and those seeking employees in technical (engineering or otherwise), educational, clerical, executive, hospital, medical, dental, and like pursuits not provided for under either a class one or a class three license.

A class three license shall entitle the holder thereof to engage in the business of serving those seeking employment and those seeking employees in circus, vaudeville, theatrical, or other entertainments, exhibitions, or performances, or allied pursuits.

Nothing in this Act shall be construed to prohibit an employment agent holding a class one license from serving those included under a class two license, provided the business is conducted in accordance with the rules and regulations applicable to a class one license; and under no circumstances shall a licensee be allowed to conduct a theatrical agency under any but a class three license.

Any question of classification arising under the provisions of this Act shall be determined by the attorney general.

§ 12. Licenses Posted—Schedule of Charges Posted and Printed on Receipts—Sections of Law Posted.) Every employment agent licensed under a class one license shall post in a conspicuous place in every room used for business purposes in the employment office conducted by him, and shall have printed on the back of every receipt given, a schedule showing the amount of the service charges to be made to either employees, employers, or both. In no case shall the amount collected exceed the schedule of charges so indicated.

Every employment agent licensed under a class one license shall post in a conspicuous place in every room used for business purposes in the employment office conducted by him, a copy of sections 12 and 15 hereof, to be furnished the employment agent by the attorney general.

No employment agent holding a class one license shall direct any applicant to apply for employment at any place outside of the office of such employment agent without first giving to such applicant, in written form, the name and address of the employment agent, the name of the applicant, the name

and address of the person to whom the applicant is referred, and the kind of employment supposed to be obtainable at such place. Nothing herein shall be construed to prohibit an employment agent from directing an applicant by telephone to apply for employment, but such telephone message must be confirmed in writing by the employment agent within 24 hours after the telephone conversation, and a carbon copy of such confirmation shall be kept on file at the place of business of the employment agent for a period of one year.

§ 13. Contracts with Applicants for Employment.) Every employment agent licensed under a class two license shall contract, in writing, with every applicant for employment for services to be rendered to the applicant by the employment agent, which contract shall contain the date, the name and address of the employment agency, the name of the employment agent, the service charge to be made to the applicant, and the time and method of payments, and, on either the face or back of the contract, shall appear the definition of "accept", "method of payment", "temporary position" and "charge for permanent position which proves to be temporary".

§ 14. Theatrical Agencies—Duplicates of Applications for Engagements.) Every employment agent conducting a theatrical agency who shall procure for or offer to an applicant a theatrical engagement shall have executed, in duplicate, a contract containing the name and address of the applicant, the name and address of the employer, and of the employment agent acting for such employer; the time and duration of such engagement; the amount to be paid to such applicant; character of entertainment to be given or services to be rendered, and the name of the person by whom the transportation is to be paid. One of such duplicate contracts shall be delivered to the person engaging the applicant and the other shall be delivered to the applicant. The employment agency procuring the engagement for such applicant shall keep on file, or enter in a book provided for that purpose, a copy of such contract.

§ 15. Rules Governing Agencies.) In addition to the foregoing rules governing specific classifications, the following rules shall govern each and every employment agent.

(1) Every license, of whatever classification, shall be hung in a conspicuous place in the main office of the employment agency.

(2) No fee shall be solicited or accepted as an application of registration fee by any employment agent for the purpose of being registered as an applicant for employment.

(3) Every employment agent shall give to every person from whom the payment of a service charge is received for

services rendered or to be rendered, or assistance given or to be given, a receipt bearing the name and address of the employment agency, the name of the employment agent, the amount of the payment, the date of the payment and for what it is paid. Every receipt to an applicant by an employment agent shall be numbered and bound in duplicate form. Duplicate copy of each receipt shall be kept at least one year.

(4) Every employment agent shall keep a record of all services rendered employers and employees. This record shall contain the name and address of the employer by whom the services were solicited, the name and address of the employee, kind of position offered by the employer, kind of position accepted by the employee, probable duration of the employment, rate of wage or salary to be paid the employee, amount of the employment agent's service charge, dates and amounts of payments, date and amount of refund, if any, and for what, and a space for remarks under which shall be recorded anything of an individual nature to amplify the foregoing report and as information in the event of any question arising concerning the transaction. Such records shall during business hours be open to the inspection of the attorney general at the address where the employment agency is conducted for the purpose of satisfying the attorney general that they are being kept in conformity with this rule. Upon written complaint being made, the attorney general may require of the employment agent against whom the complaint is made a detailed account under oath in writing of the transaction referred to in the complaint. In the event the attorney general has reason to question the detailed report so submitted by the employment agent, the attorney general shall have authority to demand of the employment agent the production of these records for examination by him, or his agent, at such place as the attorney general may designate.

(5) No employment agent shall send out any applicant for employment without having obtained, either orally or in writing, a bona fide order, and if no employment of the kind applied for existed at the place to which the applicant was directed, the employment agent shall refund to the applicant, within 48 hours of demand, any sums paid by the applicant for transportation in going to and returning from the place, and all fees paid by the applicant. Nothing in this Act shall be construed to prevent an employment agent from directing an applicant to an employer where the employer has previously requested that he be accorded interviews with applicants of certain types and qualifications, even though no actual vacancy existed in the employer's organization at the time the applicant was so directed; nor shall it prevent the employment agent from attempting to sell the services of an applicant to

the employer even though no order has been placed with the employment agent; provided, that in any case the applicant is acquainted with the facts when directed to the employer, in which event no employment agent shall be liable to any applicant as provided in this rule.

(6) No employment agent shall, by himself, or by his agent or agents, solicit, persuade, or induce any employee to leave any employment in which the employment agent or his agents has placed the employee. Nor shall any agent, by himself or through any of his agents, persuade or induce or solicit any employer to discharge any employee.

(7) No employment agent shall knowingly cause to be printed or published a false or fraudulent notice or advertisement for help or for obtaining work or employment.

(8) Any employment agent who knowingly procures, entices, aids, or abets in procuring, enticing, or sending a woman or girl to practice prostitution or to enter as an inmate or a servant a house of ill fame, or other place resorted to for prostitution, the character of which, upon reasonable inquiry, could have been ascertained by the employment agent, shall be deemed guilty of a misdemeanor and punishable by a fine of not less than \$100.00, and not more than \$1,000.00, or by imprisonment for a period not to exceed one year, or both, at the discretion of the court.

(9) No employment agent shall place or assist in placing any person in unlawful employment.

(10) No employment agent shall fail to state in any advertisement, proposal, or contract for employment, that there is a strike or lockout at the place of proposed employment, if he has knowledge that such condition exists.

(11) Any person, firm, or corporation who shall split, divide, or share, directly or indirectly, any fee, charge, or compensation received from any employee with any employer, or person in any way connected with the business thereof, shall be guilty of a misdemeanor and punished by a fine of not less than \$100.00, and not more than \$1,000.00, or by imprisonment for a period not to exceed one year, or both at the discretion of the court.

Approved March 18, 1963.

LIENS

CHAPTER 256

S. B. No. 134
(Reichert, Longmire)

EXPIRATION AND EXTENSION OF MORTGAGES

AN ACT

Providing for expiration of mortgages of real estate ten years after final maturity, or recording in case maturity is not shown of record, unless extended of record hereunder, giving notice and fixing the time of taking effect, repealing sections 28-01-43 and 35-03-13 of the North Dakota Century Code, and creating and enacting subsection 3 of section 28-01-15 of the North Dakota Century Code, relating to time to commence actions or proceedings to foreclose real estate mortgages.

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

§ 1. **Expiration of Real Estate Mortgages.)** Unless extended as specified in this Act, the lien created by a mortgage of North Dakota real estate and all notice from the record thereof shall expire as to all persons and for all purposes as follows:

1. If the final maturity date is ascertainable from the record of the mortgage the lien of the mortgage expires ten years after that date, or
2. If the final maturity date of the mortgage is not ascertainable from the record, the lien of the mortgage expires ten years after the date the mortgage is filed for record in the office of the register of deeds.

Expiration of a mortgage lien under the provisions of this Act shall be equivalent for all purposes to proper discharge of the mortgage of record, and execution or recordation of a discharge instrument shall not be necessary to terminate a mortgage lien which has so expired. Satisfaction of mortgage in the common form may be recorded at any time.

Expiration of a mortgage lien as provided herein shall occur notwithstanding that the right to foreclose the mortgage has not been or might not be barred by the defense of limitations, whether tolled by nonresidence, disability, death, part payment, acknowledgment, extension, new promise, or waiver, and shall occur notwithstanding any provisions of the Federal Soldiers' and Sailors' Civil Relief Act.

§ 2. Extension of Mortgage—Expiration Delayed.) Expiration of a real estate mortgage lien as herein provided shall not occur if prior to the date such expiration otherwise would become effective:

1. An action or proceeding to foreclose is timely and properly commenced and the summons and complaint in such action are duly filed with the clerk of the court having jurisdiction, and there is duly recorded in the office of the register of deeds a special notice of the pendency of such action, or of the pendency of a proceeding to foreclose by advertisement, or
2. There is duly recorded in the office of the register of deeds the statutory notice of intention to foreclose with proof of service, or
3. A deed in lieu of foreclosure purporting to continue the mortgage lien unmerged in the fee title is duly recorded in the office of the register of deeds, or
4. Actual possession of the mortgaged property is taken and held by the owner of the mortgage, or
5. An instrument by or on behalf of an interested party in affidavit form asserting extension and continuation of the mortgage lien is duly recorded in the office of the register of deeds of the county in which the affected mortgaged real estate or some portion thereof is situated, provided that no such instrument shall be effective to postpone expiration of a mortgage lien under this Act for more than ten years beyond the date expiration would have become effective.

§ 3. Act Retroactive — Effective Date.) Notice is hereby given that this Act applied to all mortgages, including those executed or recorded before the effective date of this Act. This Act shall not bar any action, preclude foreclosure or enforcement of any lien or cause any mortgage lien to expire, until January 1, 1964.

§ 4. Repeal.) Sections 28-01-43 and 35-03-13 of the North Dakota Century Code are hereby repealed, effective January 1, 1964.

§ 5.) Effective from and after January 1, 1964, subsection 3 of section 28-01-15 of the North Dakota Century Code is hereby enacted to read as follows:

3. Any action or proceeding for the foreclosure of a mortgage upon real estate.

Approved March 4, 1963.

LIVESTOCK

CHAPTER 257

S. B. No. 167
(Holand)

LIVESTOCK AUCTION MARKET EXCLUSIONS

AN ACT

To create and enact subsection 4 of section 36-05-02 of the North Dakota Century Code, relating to sales of livestock.

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

§ 1.) Subsection 4 of section 36-05-02 of the North Dakota Century Code is hereby created and enacted to read as follows:

4. Any place where a duly constituted association of breeders of livestock of any class assembles and offers for sale and sells under its management, at an annual production sale, which sale shall not exceed 21 calendar days, livestock raised or held for at least one year by producers affiliated with such association, provided such association assumes all responsibility of the sale, guarantees title of such livestock, and makes proper provision for the inspection of all animals sold.

Approved March 6, 1963.

CHAPTER 258

H. B. No. 863
(Maragos)

RENDERING PLANT LOCATIONS

AN ACT

To amend and reenact section 36-07-13 of the North Dakota Century Code, relating to the restrictions on locating rendering plants.

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

§ 1. **Amendment.)** Section 36-07-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-07-13. Restrictions on Rebuilding and Locating Rendering Plants.) No rendering plant or establishment shall be constructed within three miles of the limits of any municipality nor within one mile of any farmstead unless the owner of such farmstead shall give his written consent. No such plant which was in existence and operation on March 17, 1941 shall be rebuilt if it is located within three miles of the limits of any municipality.

Approved March 6, 1963.

CHAPTER 259

S. B. No. 201
(Committee on Agriculture)

BRAND RECORDING FEES

AN ACT

To amend and reenact section 36-09-13 of the North Dakota Century Code, relating to the rerecording of brand; fee.

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

§ 1. Amendment.) Section 36-09-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-09-13. Rerecording of Brand—Fee.) The rerecording of abandoned livestock brands or marks, and the recording of new brands and marks, shall conform in all respects to the provisions of this chapter. Each application for rerecording shall be accompanied by a fee of five dollars.

Approved March 9, 1963.

MILITARY

CHAPTER 262

H. B. No. 725
(Lindberg)

MILITARY COMMENDATIONS AND ADMINISTRATION

AN ACT

To amend and reenact sections 37-01-09, 37-01-10, 37-01-28, 37-03-13, 37-04-08, 37-04-09, 37-06-06, and 37-07-02 of the North Dakota Century Code, relating to service medals, compliance with orders by militia, duties of adjutant general, control and insurance of military property, pay and expense of personnel of national guard, disbursement of funds and receipts, reports, and re-enlistments in the national guard.

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

§ 1. **Amendment.)** Section 37-01-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-01-09. Service Medals.) The commander in chief of the national guard of this state may issue an order providing suitable service medals or ribbons or marks of distinction for all officers and enlisted men who have served in the national guard for an aggregate period of five, ten, fifteen, and twenty years, respectively, and for a like service thereafter or for service on active duty with the armed forces of the United States. Such service medals or ribbons may also be awarded to any member of the armed forces of the United States who shall serve in an active duty capacity with the North Dakota national guard for a period of two or more years.

§ 2. **Amendment.)** Section 37-01-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-01-10. Distinguished Service Medal—Presented by Whom—Qualifications—Regulations Governing.) The governor, in the name of the legislative assembly of this state, may present a military medal, known as the “distinguished service medal”, to any member or former member of the North Dakota national guard who in the discharge of his military duties has distinguished himself by extraordinary heroism or devotion to duty or to a member or former member of the armed forces of the United States or the national guard of another state

who performs outstanding and extraordinary service for the national guard of this state. Such medal shall bear a suitable inscription and ribbon and shall be of suitable military design. The award of a distinguished service medal shall be made by a board of awards consisting of the adjutant general and senior officers of regiments or separate organizations of the national guard of this state. Such board shall be instituted by a general order of the adjutant general's office prescribing rules and regulations for its meetings and method of procedure. Not more than one distinguished service medal shall be awarded to any one person and no medals shall be awarded or presented to any person whose service subsequent to the recommendations for award shall not have been honorable. For each succeeding citation, a person to whom a distinguished service medal shall have been awarded or presented previously shall be entitled to wear, as the adjutant general of the state may direct, a metal device attached to the ribbon of such distinguished service medal. In the event of the death of a person to whom a distinguished service medal has been awarded, the presentation shall be made to the nearest of kin.

§ 3. Amendment.) Section 37-01-28 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-01-28. Failure of Member of the Militia to Appear — Penalty.) Every member of the militia who is ordered out or ordered on duty, who volunteers, or who is drafted under the provisions of this title, who does not appear at the time and place designated by his commanding officer, the adjutant general, or the mustering officer, who does not produce a sworn certificate of physical disability from a physician in good standing showing his inability to appear, shall be taken as a deserter and dealt with as prescribed in the uniform code of military justice of the United States.

§ 4. Amendment.) Section 37-03-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-03-13. Adjutant General to Control Military Installations—Maintenance Fund—Insurance.) The adjutant general of the state of North Dakota shall have full control of Camp Gilbert C. Grafton, Ramsey County, Fraire Barracks, Burleigh County, national guard air base facilities constituting a portion of Hector Airfield in Cass County, all in North Dakota and such other real property, installations and facilities that may be acquired or leased by this state or the office of the adjutant general for military purposes. All moneys received from the sale of timber, stone, agricultural products or other material

taken from the properties and the proceeds of any leases or sub-leases thereof and other proceeds from the sale of military property shall be paid into the state treasury, and kept as a separate fund and are hereby appropriated for the improvement of the properties for military uses and shall be paid out upon proper vouchers approved by the adjutant general in accordance with the Act of Congress of the United States granting the lands, installations or facilities to the state of North Dakota or as otherwise authorized by law.

The adjutant general after consultation with the insurance commissioner, shall insure with the state fire and tornado fund in accordance with the provisions of chapter 26-24 such buildings, installations, facilities or their contents or portions thereof as he shall in his discretion determine to be in the best interests of the state. The adjutant general shall not insure buildings or property that is subject to replacement by the United States.

§ 5. Amendment.) Section 37-04-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-04-08. Pay Received by Personnel of the National Guard.) Every commissioned officer of the national guard shall receive from this 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. The adjutant general and deputy assistant adjutant general when receiving salary from the state and not on active duty in a federal status shall receive such compensation as may be appropriated by the legislative assembly for that purpose, provided that when the adjutant general receives compensation from the government of the United States as director of selective service, such compensation shall be deducted from the compensation otherwise due him from the state and he shall be paid from state funds only the difference, if any, between the compensation from the United States and the compensation provided in this section.

§ 6. Amendment.) Section 37-04-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-04-09. Pay Allowed Officers of National Guard.) When officers or enlisted men of the national guard are convened by order of the governor at a meeting of instruction other than annual camp, or when they are detailed under orders to perform military duties outside of their own stations, they shall be reimbursed for traveling and incidental expenses at the same rate as provided by law for other state officials. The

adjutant general may, in his discretion, authorize the purchase of meals or rations for officers or enlisted men of the national guard in a duty or travel status in lieu of individual reimbursement for meals.

§ 7. **Amendment.)** Section 37-06-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-06-06. Funds Appropriated for National Guard—Expending — Statement of Receipts and Disbursements Filed.) No funds appropriated by the legislative assembly for the maintenance of the national guard of this state shall be drawn except upon the requisition of the paymaster general. He shall file with the adjutant general an annual financial report showing all receipts and disbursements.

§ 8. **Amendment.)** Section 37-07-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-07-02. Re-Enlistment Periods in National Guard.) Re-enlistments in the national guard subsequent to original enlistments may be made for such period as may be prescribed by the adjutant general in accordance with regulations promulgated by the United States Department of Defense. For the purpose of this section, any enlistment by a person who has previously served six months or more in the armed forces of the United States shall be considered a re-enlistment.

Approved March 18, 1963.

CHAPTER 260

S. B. No. 194
(Morgan)

HOG CHOLERA VACCINE USE

AN ACT

To amend and reenact section 36-14-09 of the North Dakota Century Code, relating to the use of living hog cholera virus and vaccines.

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

§ 1. **Amendment.**) Section 36-14-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-14-09. Living Hog Cholera Virus and Vaccines—Purchase, Possession and Use of Living Hog Cholera Virus and Vaccines Prohibited—Misdemeanor.) The purchase, possession or use of living hog cholera virus and vaccines by any person including all licensed veterinarians, is hereby prohibited and made unlawful except by written permit issued by the executive officer and state veterinarian.

Any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not to exceed two hundred dollars or imprisonment in the county jail for not to exceed thirty days, or by both such fine and imprisonment.

Approved March 4, 1963.

CHAPTER 261

H. B. No. 650

(Davis (Dunn), Connolly, Currie, Bratcher, Vendsel, Austin)

BRUCELLOSIS VACCINATION REQUIRED

AN ACT

To require calfhood vaccination of certain dairy and beef cattle against brucellosis, and providing a penalty for violation of this Act.

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

§ 1. Calfhood Vaccination Against Brucellosis Required.)

No person shall bring into this state any female dairy cattle over eight months of age or any female beef cattle over twelve months of age for dairy or breeding purposes within this state that have not been officially calfhood vaccinated against brucellosis; nor shall he acquire within this state, except by his own raising, any female dairy cattle over eight months of age or any female beef cattle over twelve months of age born after January 1, 1963, for dairy or breeding purposes within this state, that have not been officially calfhood vaccinated against brucellosis. "Officially calfhood vaccinated" shall mean a bovine female animal vaccinated against brucellosis while from four through eight months of age, if a dairy breed, or from four to twelve months, if a beef breed, under the supervision of a federal or state veterinary official, with a vaccine approved by the North Dakota state veterinarian, and permanently identified as such a vaccinate and reported at the time of vaccination to the appropriate state or federal agency cooperating in the eradication of brucellosis.

§ 2. Penalty.) Any person who shall bring into this state or acquire within this state any cattle contrary to the provisions of this Act, shall be guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars, or by imprisonment in the county jail for not more than ninety days, or by both such fine and imprisonment.

§ 3. Effective Date of This Act.) This Act shall become effective July 1, 1963.

Approved March 5, 1963.

MINING AND GAS AND OIL PRODUCTION

CHAPTER 263

H. B. No. 847
(Burk)

INDUSTRIAL COMMISSION RULES AND APPEALS

AN ACT

To amend and reenact subsections 1 and 2 of section 38-08-14 of the North Dakota Century Code, relating to appeals to the district court from the orders of the industrial commission and subsection 6 of section 38-08-11, relating to rules covering practice before the industrial commission in regard to oil and gas conservation.

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

§ 1. Amendment.) Subsection 1 of section 38-08-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Any person adversely affected by an order entered by the commission may appeal from such order to the district court of Burleigh County. Notice of appeal must be filed by such person with the commission within thirty days after the entry of the order complained of by the appellant, or within thirty days, following the order overruling a motion for rehearing or sustaining the original order in the event a motion for rehearing has been filed. A copy of the notice of appeal shall be filed with the district court of Burleigh County at the same time the notice of appeal is filed with the commission. The notice of appeal must identify the order and the grounds of appeal, and reasonably specify that portion of the record which the appellant desires included in the transcript upon appeal. Immediately upon the filing of the notice of appeal the commission shall certify to the appellant the estimated cost of preparing the transcript of appeal of the proceedings upon which the order complained of was entered. The amount of the estimated cost must be deposited with the commission within ten days after the mailing of the certification of the costs to the appellant. Upon the deposit of the costs the commission shall prepare and certify under its seal the transcript. The transcript shall be delivered to the district court of Burleigh County within sixty days after the filing of the notice of appeal. A copy of the transcript shall

be delivered to the appellant, or his designated attorney, upon deposit of the cost of preparing same with the commission. Fees charged and collected for the transcript of evidence may be paid to the person preparing such transcript.

§ 2. Amendment.) Subsection 2 of section 38-08-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. An appeal shall be perfected by filing the notice of appeal with the commission within the specified thirty day period. The appeal may be dismissed by the district court for failure of the appellant to make the required cost deposit unless for good cause shown the time is extended by order of the district court. If the district court deems the transcript insufficient, the court may return the transcript to the commission for proper additions, and thereafter assess such further costs against the appellant as the court in its discretion deems sufficient.

§ 3. Amendment.) Subsection 6 of section 38-08-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6. The commission may act upon its own motion, or upon the petition of any interested person. On the filing of a petition concerning any matter within the jurisdiction of the commission, the commission shall promptly fix a date for a hearing thereon, and shall cause notice of the hearing to be given. The hearing shall be held without undue delay after the filing of the petition. The commission shall enter its order within thirty days after the hearing. A copy of the order of the commission shall be forwarded by mail to those persons filing written appearances at the hearing.

Approved March 9, 1963.

MOTOR VEHICLES

CHAPTER 264

S. B. No. 285
(Morgan, Forkner, Lips)

MOTOR VEHICLE DEFINITIONS

AN ACT

Regulating the modification of motor vehicles, and to amend and reenact sections 39-01-01, 39-10-03, and to create and enact section 39-10-03.1, and to amend and reenact sections 39-09-06, 39-10-08, 39-10-12, 39-10-25, 39-10-34, 39-10-43, and 39-10-61 of the North Dakota Century Code, relating to definitions, emergency vehicles, rules of the road and vehicle equipment.

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

§ 1. **Modification of Motor Vehicles.**) It shall be unlawful for any person to operate a motor vehicle of a type required to be registered under the laws of this state with an unloaded weight of six thousand pounds or less upon a public highway with either the rear or front end suspension system or steering mechanism altered or changed from the manufacturer's original design, except that nothing contained herein shall prevent the installation of manufactured heavy duty equipment to include shock absorber and over load springs, nor shall anything contained herein prevent a person from operating a motor vehicle on a public highway with normal wear of the afore-mentioned systems and mechanism and provided further that the normal wear shall not affect the control of the vehicle through the steering mechanism.

§ 2. **Amendment.**) Section 39-01-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-01-01. Definitions.) In this title, unless the context or subject matter otherwise requires:

1. Authorized emergency vehicles:
 - a. Class A authorized emergency vehicles shall mean:
 - (1) Vehicles of a governmental owned fire department;
 - (2) Vehicles when operated by or under the control of a police officer having authority to enforce the provisions of this title pertaining to all motor

vehicles or by a salaried employee of any municipal police department within the municipality or by any sheriff or deputy sheriff not to include special deputy sheriffs, or by the warden of the state penitentiary and his authorized agents;

- (3) Ambulances;
 - (4) Vehicles operated by or under the control of the commissioner, and district deputy commissioner, and district deputy game warden of the North Dakota game and fish department;
 - (5) Vehicles owned or leased by the United States Government used for law enforcement purposes.
- b. Class B authorized emergency vehicles shall mean wrecker and such other emergency vehicles as are authorized by the local authorities.
2. "Bicycle" shall mean every device propelled by human power upon which any person may ride, having two tandem wheels either of which is more than twenty inches in diameter;
 3. "Bus" shall mean every motor vehicle designed for carrying more than ten passengers and used for the transportation of persons, and every motor vehicle, other than a taxicab, designed and used for the transportation of persons for compensation;
 4. "Business district" shall mean the territory contiguous to a highway when fifty percent or more of the frontage thereon for distance of three hundred feet or more is occupied by buildings in use for business;
 5. "Commercial passenger transportation" shall mean the carriage of passengers for hire, except that such term shall not include:
 - a. The carriage of passengers within the limits of a city or village;
 - b. The carriage by local bus lines of passengers to or from a railroad station from or to places within any city or village or within two miles of the limits thereof;
 6. "Commercial freighting" shall mean the carriage of things other than passengers, for hire, except that such terms shall not include:
 - a. The carriage of things other than passengers within the limits of the same city or village;
 - b. Carriage by local dray lines of baggage or goods to or from a railroad station from or to places in such city or village or in the immediate vicinity thereof,

- in this state, and not to exceed two miles from the corporate or recognized limits of said city or village;
or
- c. Hauling done by farmers for their neighbors in transporting agricultural products to or from market;
- *7. "Commissioner" shall mean the commissioner of the North Dakota state highway department, acting directly or through his authorized agents;
8. "Controlled-access highway" shall mean every highway, street, or roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the same except at such points only and in such manner as may be determined by the public authority having jurisdiction over such highway, street, or roadway;
9. "Crosswalk" shall mean that part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs, or, in the absence of curbs, from the edges of the traversable roadway; or any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface;
10. "Dealer" shall mean every person, partnership or corporation engaged in the business of buying, selling or exchanging motor vehicles, or who advertises, or holds himself out to the public as engaged in the buying, selling or exchanging of motor vehicles, or who engages in the buying of motor vehicles for resale. Any person, partnership, corporation, or association doing business in several cities or villages or in several locations within a city shall be considered a separate dealer in each such location;
11. "Department" shall mean the motor vehicle department of this state;
12. "Director" shall mean the director of the division of public safety of this state;
13. "Division" shall mean the division of public safety of this state;
14. "Driver" shall mean every person who drives or is in actual physical control of a vehicle;
15. "Essential parts" shall mean all integral and body parts of a vehicle of a type required to be registered here-

***Note:** This definition was also amended as subsection 26 of section 39-01-01 by section 1 of chapter 277 of the 1963 S.L., but wording is identical.

- under, the removal, alteration or substitution of which would tend to conceal the identity of the vehicle or substantially alter its appearance, model, type or mode of operation;
16. "Explosives" shall mean any chemical compound or mechanical mixture that is commonly used or intended for the purpose of producing an explosion and which contains any oxidizing and combustive units or other ingredients in such proportions, quantities, or packing that an ignition by fire, by friction, by concussion, by percussion, or by detonator of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or by destroying life or limb;
 17. "Farm tractor" shall include every motor vehicle designed and used primarily as a farm implement for drawing plows, moving machines, and other implements of husbandry;
 18. "Flammable liquid" shall mean any liquid which has a flash point of seventy degrees Fahrenheit, or less, as determined by a tagliabue or equivalent closed-cup test device;
 19. "Guest" shall mean and include a person who accepts a ride in any vehicle without giving compensation therefor;
 20. "Gross weight" shall mean the weight of a vehicle without load plus the weight of any load thereon;
 21. "Highway" shall mean the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel;
 - *22. "Implement of husbandry" shall mean every vehicle designed and adapted exclusively for agricultural, horticultural or livestock raising operations or for lifting or carrying an implement of husbandry and in either case not subject to registration if used upon the highway;
 23. "Intersection" shall mean the area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of two highways which join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict. Where a highway includes

***Note:** This definition was created as subsection 62 of section 39-01-01 by section 2 of chapter 283 of the 1963 S.L.

two roadways thirty feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection. In the event such intersecting highway also includes two roadways thirty feet or more apart, then every crossing of two roadways of such highways shall be regarded as a separate intersection;

24. "Intoxicating liquor" shall mean and include any beverage containing alcohol;
25. "Judgment" shall mean any judgment which shall have become final by expiration without appeal of the time within which an appeal might have been perfected, or by final affirmation on appeal, rendered by a court of competent jurisdiction of any state of the United States, upon a cause of action arising out of ownership, maintenance, or use of any motor vehicle, for damages, including damages for care and loss of services, because of bodily injury to or death of any person, or for damages because of injury to or destruction of property, including the loss of use thereof, or upon a cause of action on an agreement of settlement for such damages;
26. "Legal owner" shall mean a person who holds the legal title to a vehicle;
27. "Local authorities" shall include every county, municipal, and other local board or body having authority to adopt local police regulations under the Constitution and laws of this state;
28. "Mail" shall mean to deposit mail properly addressed and with postage prepaid with the United States postal service;
29. "Manufacturer" shall mean any person engaged in the business of manufacturing motor vehicles or trailers;
30. "Metal tires" shall include all tires the surface of which in contact with the highway is wholly or partly of metal or other hard, nonresilient material;
- *31. "Motor-driven cycle" shall mean every motorcycle, including every motor scooter, with a motor which produces not to exceed five horsepower, and every bicycle with motor attached;
32. "Motor vehicle" shall include every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails;

***Note:** This definition, which was formerly contained in subsection 27 of section 39-01-01, was repealed by section 7, chapter 265, of the 1963 S.L.

33. "Nonresident" shall mean any person who is not a resident of this state;
34. "Nonresident's operating privilege" shall mean the privilege conferred upon a nonresident by the laws of this state pertaining to the operation by such person of a motor vehicle, or the use of a vehicle owned by such person, in this state;
35. "Official traffic-control devices" shall mean all signs, signals, markings, and devices not inconsistent with this Act placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning, or guiding traffic;
36. "Operator" shall mean every person who drives or is in actual physical control of a motor vehicle upon a highway or who is exercising control over or steering a vehicle being towed by a motor vehicle;
37. "Owner" shall mean a person who holds the legal title of a vehicle, or if a vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement, and with an immediate right of possession vested in the conditional vendee or lessee, or if a mortgagor of a vehicle is entitled to possession, then such conditional vendee or lessee or mortgagor shall be deemed the owner for the purpose of this title;
38. "Pedestrian" shall mean any person afoot;
39. "Park", when prohibited, shall mean the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading;
40. "Person" shall include every natural person, firm, co-partnership, association, or corporation;
41. "Pneumatic tires" shall include all tires inflated with compressed air;
42. "Pole trailer" shall mean every vehicle without motive power designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach, or pole, or by being boomed or otherwise secured to the towing vehicle, and ordinarily used for transporting long or irregularly shaped loads such as poles, pipes, or structural members capable, generally, of sustaining themselves as beams between the supporting connections;
43. "Police officer" shall mean every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations;

44. "Private road or driveway" shall mean every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons;
45. "Proof of financial responsibility" shall mean proof of ability to respond in damages for liability, on account of accidents occurring subsequent to the effective date of said proof, arising out of the ownership, maintenance or use of a motor vehicle, in the amount of ten thousand dollars because of bodily injury to or death of one person in any one accident, and, subject to said limit for one person, in the amount of twenty thousand dollars because of bodily injury to or death of two or more persons in any one accident, and in the amount of five thousand dollars because of injury to or destruction of property of others in any one accident;
46. "Railroad" shall mean a carrier of persons or property upon cars, other than streetcars, operated upon stationary rails;
47. "Railroad sign or signal" shall mean any sign, signal, or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train;
48. "Reconstructed vehicle" shall mean every vehicle of a type required to be registered hereunder materially altered from its original construction by the removal, addition or substitution of essential parts, new or used;
49. "Residence district" shall mean territory contiguous to a highway not comprising a business district, when the frontage on such highway for a distance of three hundred feet or more is occupied mainly by dwellings, or by dwellings and buildings in use for business;
50. "Right-of-way" shall mean the privilege of the immediate use of a roadway;
51. "Road tractor" shall mean every motor vehicle designed and used for drawing other vehicles and not so constructed as to carry any load thereon either independently or any part of the weight of a vehicle or load so drawn;
52. "Roadway" shall mean that portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the berm or shoulder. In the event a highway includes two or more separate roadways the term "roadway" as used herein shall refer to any such roadway separately but not to all such roadways collectively;

53. "Safety zone" shall mean the area or space officially set aside within a highway for the exclusive use of pedestrians and which is so plainly marked or indicated by proper signs as to be plainly visible at all times while set aside as a safety zone;
54. "School bus" shall mean every motor vehicle owned by a public or governmental agency and operated for the transportation of children to or from school or privately owned and operated for compensation for the transportation of children to or from school;
- *55. "Semitrailer" shall include every vehicle of the trailer type so designed and used in conjunction with a motor vehicle that some part of its own weight and that of its own load rests upon or is carried by another motor vehicle;
56. "Sidewalk" shall mean that portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines, intended for use of pedestrians;
57. "Solid tire" shall include every tire made of rubber or other resilient material other than a pneumatic tire;
58. "Specially constructed vehicle" shall mean any vehicle under a distinctive name, make, model, or type by a generally recognized manufacturer of vehicles and not materially altered from its original construction;
59. "Stand" or "standing" shall mean the halting of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in receiving or discharging passengers;
60. "State" shall mean a state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico or a province of the Dominion of Canada;
61. "Stop", when required, shall mean complete cessation from movement;
62. "Stop" or "stopping", when prohibited, shall mean any halting, even momentarily of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic-control sign or signal;
63. "Street" shall mean the entire width between boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel;

***Note:** This definition was also amended as subsection 8 of section 39-01-01 by section 2 of chapter 405 of the 1963 S.L.

64. "Through highway" shall mean every highway or portion thereof at the entrances to which vehicular traffic from intersecting highways is required by law to stop before entering or crossing the same when stop signs are erected, or to yield right-of-way when yield right-of-way signs are erected as provided by law;
65. "Trackless trolley coach" shall mean every motor vehicle which is propelled by electric power obtained from overhead trolley wires but not operated upon rails;
66. "Traffic" shall mean pedestrians, ridden or herded animals, vehicles, streetcars, and other conveyances either singly or together while using any highway for purpose of travel;
67. "Traffic-control signal" shall mean any device, whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop and to proceed;
68. "Trailer" shall include every vehicle without motive power designed to carry property or passengers wholly on its own structure and to be drawn by a motor vehicle, except that it shall not include a "house trailer" or "mobile home", which terms shall mean a vehicle as defined in this subsection which is designed and intended for use as living or sleeping quarters for people and which is not used for commercial hauling of passengers;
69. "Truck" shall include every motor vehicle designed, used or maintained primarily for transportation of property;
70. "Truck tractor" shall include every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn;
71. "Urban district" shall mean the territory contiguous to and including any street which is built up with structures devoted to business, industry or dwelling houses situated at intervals of less than 100 feet for a distance of a quarter of a mile or more;
72. "Vehicle" shall include every device in, upon, or by which any person or property may be transported or drawn upon a public highway, except devices moved by human power or used exclusively upon stationary rails or tracks.

§ 3. Amendment.) Section 39-10-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-10-03. Class A Authorized Emergency Vehicles.)

1. The driver of a class A authorized emergency vehicle may:
 - a. Park or stand, irrespective of the provisions of this chapter;
 - b. Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;
 - c. Exceed the speed limit so long as he does not endanger life or property;
 - d. Disregard regulations governing direction of movement or turning in specified directions.
2. The exceptions herein granted to a class A authorized emergency vehicle shall apply only:
 - a. When the authorized emergency vehicle is in pursuit of or apprehension of a violator or a suspected violator requiring the use of these exemptions;
 - b. When the class A authorized emergency vehicle is being operated in response to a reported emergency involving a possible personal injury, death or damage to property, and when giving audible signal by siren or when giving adequate warning by use of a flashing red light which is visible under normal atmospheric conditions for at least five hundred feet;
 - c. In any instance when the head of a law enforcement agency deems advisable within the area of his jurisdiction for the protection of person and property and when giving audible signal by siren or when giving adequate warning by use of a flashing red light which is visible under normal atmospheric conditions for at least five hundred feet.
3. No emergency vehicle shall display or permit to be displayed any red lamp except when operated on official business.

§ 4. Amendment.) Section 39-10-03.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

39-10-03.1. Class B Authorized Emergency Vehicles.)

1. The driver of class B authorized emergency vehicles may:
 - a. Park or stand, irrespective of the provision of this chapter;
 - b. Exceed the speed limit so long as he does not endanger life or property during the time of a local or national disaster;

- c. Disregard regulations governing direction of movement or turning in specified directions.
2. The exceptions herein granted to a class B authorized emergency vehicle shall apply only when the authorized emergency vehicle is displaying an amber light visible under normal atmospheric conditions for a distance of five hundred feet in any direction, and
 - a. When it is necessary for the authorized emergency vehicle to use these exemptions for the immediate protection of life or property;
 - b. When an authorized emergency vehicle is stopped on a highway for the purpose of performing a duty as required of him; or
 - c. When traveling at a speed slower than the normal flow of traffic.

§ 5. **Amendment.)** Section 39-09-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-09-06. Speed Limitations Inapplicable to Whom — Liability of Exempt Driver for Reckless Driving.) The speed limitations provided for in this chapter shall not apply to class A authorized emergency vehicles. The exemptions provided for in this section shall not protect the driver of any such vehicle from the consequences of a reckless disregard of the safety of others.

§ 6. **Amendment.)** Section 39-10-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- 39-10-08. Drive on Right Side of Roadway — Exceptions.)**
1. Upon all roadways of sufficient width a vehicle shall be driven upon the right half of the roadway, except as follows:
 - a. When overtaking and passing another vehicle proceeding in the same direction under the rules governing such movement;
 - b. When the right half of a roadway is closed to traffic while under construction or repair;
 - c. Upon a roadway divided into three marked lanes for traffic under the rules applicable thereon; or
 - d. Upon a roadway designated and signposted for one-way traffic.
 2. Upon all roadways any vehicle proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing shall be driven in the right-hand lane then available for traffic, or as close as practicable to

the right-hand curb or edge of the roadway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn in an intersection or into a private road or driveway.

§ 7. **Amendment.)** Section 39-10-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-10-12. When Overtaking on the Right Is Permitted.)

1. The driver of a vehicle may overtake and pass upon the right of another vehicle only under the following conditions:

- a. When the vehicle overtaken is making or about to make a left turn;
- b. Upon a street or highway with unobstructed pavement not occupied by parked vehicles of sufficient width for two or more lines of moving vehicles in each direction; or
- c. Upon a one-way street, or upon any roadway on which traffic is restricted to one direction of movement, where the roadway is free from obstructions and of sufficient width for two or more lines of moving vehicles.

2. The driver of a vehicle may overtake and pass another vehicle upon the right only under conditions permitting such movement in safety. In no event shall such movement be made by driving off the pavement or main-traveled portion of the roadway except for the purpose of overtaking a vehicle which is making or about to make a left turn.

§ 8. **Amendment.)** Section 39-10-25 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-10-25. Vehicle Entering Highway from Private Road or Driveway or Turning Left to Enter a Private Road or Driveway.) The driver of a vehicle about to enter or cross a highway from a private road or driveway shall yield the right-of-way to all vehicles approaching on said highway and a vehicle turning left to enter a private road or driveway shall yield the right-of-way to all vehicles approaching on said highway and to any vehicle which is then in the left-hand lane overtaking or is about to overtake the left turning vehicle.

§ 9. **Amendment.)** Section 39-10-34 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-10-34. Pedestrians Soliciting Rides or Business.) 1. No person shall stand on a highway for the purpose of soliciting a ride, employment, or business from the occupant of any vehicle; and

2. No person shall stand on or in proximity to a street or highway for the purpose of soliciting the watching or guarding of any vehicle while parked or about to be parked on a street or highway.

§ 10. **Amendment.)** Section 39-10-43 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-10-43. Certain Vehicles Must Stop at All Railroad Grade Crossings.) 1. The driver of a bus carrying passengers for hire, or of any school bus carrying any school child, or of any vehicle carrying explosive substances or flammable liquids as a cargo or part of a cargo, before crossing at grade any track or tracks of a railroad, shall stop such vehicle within fifty feet but not less than fifteen feet from the nearest rail of such railroad and while so stopped shall listen and look in both directions along such track for any approaching train, and for signals indicating the approach of a train, except as hereinafter provided, and shall not proceed until he can do so safely. After stopping as required herein and upon proceeding when it is safe to do so the driver of any said vehicle shall cross only in such gear of the vehicle that there will be no necessity for changing gears while traversing such crossing and the driver shall not shift gears while crossing the track or tracks;

2. No stop need be made at any such crossing where a police officer directs traffic to proceed; and

3. This section shall not apply at railroad grade crossings within a business or residence district.

§ 11. **Amendment.)** Section 39-10-61 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-10-61. Clinging to Vehicles.) No person riding upon any bicycle, coaster, roller skates, sled, or toy vehicle shall attach the same or himself to any vehicle upon a roadway. No person shall drive a motor vehicle upon a public highway knowing the same to be attached by any bicycle, coaster, roller skates, sled, skis, toy vehicle or person.

Approved March 21, 1963.

CHAPTER 265

H. B. No. 727

(Leet, Kelly, Burvee)

MOTOR VEHICLE REGISTRATION

AN ACT

To create and enact a new subsection of section 39-01-01 and subdivision d of subsection 2 of section 39-04-19, to amend and reenact sections 39-04-13, 39-04-35, 39-05-27, and 39-18-03 of the North Dakota Century Code, relating to the licensing and registration of motor vehicles; and to repeal subsection 27 of section 39-01-01, and sections 39-02-06, 39-04-45, 39-04-46, 39-04-47, 39-04-48, 39-04-49, 39-04-50, 39-04-51, 39-04-52, 39-04-53, 39-05-23, and 39-05-24 of the North Dakota Century Code, relating to transporting of vehicles and records of stolen vehicles.

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

§ 1.) A new subsection of section 39-01-01 of the North Dakota Century Code is hereby created and enacted to read as follows:

“House car” shall mean a bus as defined in this section which has been reconstructed for private use as sleeping or living quarters.

§ 2. **Amendment.)** Section 39-04-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-04-13. Duplicates To Be Obtained of Number Plate, Tab, Sticker, or Registration Card if Lost, Mutilated, or Illegible—Fee.) If any number plate, tab, sticker, or registration card issued under the provisions of this chapter 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, which shall not exceed one dollar for each duplicate number plate, tab, sticker, or registration card issued.

§ 3.) Subdivision d of subsection 2 of section 39-04-19 of the North Dakota Century Code Supplement is hereby created and enacted to read as follows:

d. A house car shall be subject to registration at the corresponding rate prescribed for trucks under section 39-04-19, and the registrar shall issue distinctive plates for each house car registered.

§ 4. **Amendment.)** Section 39-05-27 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-05-27. Used Motor Vehicle Dealer to Have Certificate of Title or Other Documentary Evidence to Prove Possession.) Every dealer in used or secondhand motor vehicles shall have in his possession a separate certificate of title assigned to such dealer, or other documentary evidence of his right to the possession of every motor vehicle in his possession.

§ 5. **Amendment.)** Section 39-18-03 of the North Dakota Century Code Supplement is hereby amended and reenacted to read as follows:

39-18-03. Titling and Licensing of Mobile Homes.) Every person other than a dealer who acquires a house trailer or mobile home shall within ninety days thereafter apply to the motor vehicle registrar for an official certificate of title to such vehicle in the manner and subject to the conditions prescribed in chapter 39-05. Except when a mobile home is being transported by a driveaway transporter duly registered and licensed under the laws of this state, no person shall haul a mobile home upon the highways of the state of North Dakota unless such mobile home shall first be registered with and titled by the motor vehicle department, and a certificate of title has been issued for such mobile home, and it displays a number plate issued by and under such regulations as the registrar of motor vehicles may prescribe. The annual fee for such licensing shall be ten dollars. If such mobile home enters the state carrying the current number plate of another state, no number plate shall be required by the state of North Dakota for a period of thirty days.

If such mobile home remains stationary or parked within the state of North Dakota for a period of one year, no mobile home license shall be required for that year; provided that nothing in this chapter shall permit the use of a dealer's tag on such mobile home after the said mobile home has been sold by the dealer to whom such tag was issued.

§ 6. **Transportation Certificates and In-Transit Plates.)** A vehicle otherwise properly registered may be used for transporting other vehicles not registered provided that the transporting vehicle have displayed a distinctive certificate which shall be available from the motor vehicle registrar upon payment of an annual fee of fifty dollars and provided further that each transported vehicle have displayed thereon a distinctive in-transit plate, which shall be transferable, which shall be available from the motor vehicle registrar upon payment of fifteen dollars for each such annual in-transit plate.

***§ 7. Repeal.)** Subsection 27 of section 39-01-01 and sections 39-02-06, 39-04-45, 39-04-46, 39-04-47, 39-04-48, 39-04-49, 39-04-50, 39-04-51, 39-04-52, 39-04-53, 39-05-23, and 39-05-24 of the North Dakota Century Code are hereby repealed.

Approved March 22, 1963.

CHAPTER 266

S. B. No. 187
(Holand)

IDENTIFICATION OF STATE-OWNED VEHICLES

AN ACT

To amend and reenact section 39-01-02 of the North Dakota Century Code, relating to the identification of state-owned motor vehicles.

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

§ 1. Amendment.) Section 39-01-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-01-02. State-Owned Motor Vehicles to Have Name Painted on Side of Vehicles—Penalty for Failure.) All motor vehicles owned by any state department, institution, or industry and operated by such department, institution, or industry shall have painted on each front door the following words: NORTH DAKOTA, in letters four inches in height. Two and one-half inches directly below such words shall be printed in letters one and one-half inches in height the name of the department, institution, or industry of the state owning or operating such motor vehicle. The width of the lettering required by this section shall be proportionate to the required height and the color of such lettering shall be in clear and sharp contrast to the background. The state highway patrol and all peace officers of this state shall enforce the provisions of this section. The state auditor, in the course of spot checking or verifying the inventory of any department, institution, or industry, shall include in his report to the governor and the legislative assembly any instance of noncompliance with this section that shall come to his attention. The above requirements shall not apply to cars owned and operated by the state highway patrol or cars used principally in institutional, juvenile, parole and placement service; or to any truck owned

***Note:** Subsection 27 of section 39-01-01 which was repealed by this chapter was also amended and reenacted as subsection 31 by section 2 of chapter 264 of the 1963 S.L.

by any state department, institution, or industry. Any state official, or any employee of any state department, institution, or industry, who uses a motor vehicle which shall not be marked as is required by this section is guilty of a misdemeanor and shall be punished by a fine of not less than fifty dollars nor 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.

Approved March 21, 1963.

CHAPTER 267

H. B. No. 532

(Fitch, Burk, Stockman, Stallman)
(Davis (Mercer-Dunn-Oliver), Tough)
(From LRC Study)

PUBLIC SAFETY DIVISION TRANSFER

AN ACT

To create and enact sections 39-03-16 and 39-03-17 of the North Dakota Century Code, relating to the division of public safety, and to repeal chapter 24-14 of the North Dakota Century Code, relating to the division of public safety.

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

§ 1.) Section 39-03-16 of the North Dakota Century Code is hereby created and enacted to read as follows:

39-03-16. Safety Division Created—Director.) There is hereby created a safety division within the state highway patrol for the purpose of reducing the danger of travel on the highways, roads, and streets of this state, the number of motor vehicle accidents with resultant loss of lives, personal injuries, and property damage, and encouraging better law enforcement, more uniform penalties, safe driving practices and public adherence to traffic safety laws, through public education, information, and support.

The director of the safety division shall be appointed by the superintendent in accordance with sections 39-03-03 and 39-03-04, and possessing such qualifications by education or experience in the field of highway safety as the superintendent shall determine. The director shall receive such compensation as may be determined by the superintendent.

§ 2.) Section 39-03-17 of the North Dakota Century Code is hereby created and enacted to read as follows:

39-03-17. Powers and Duties of Director.) The director, under the supervision of the highway patrol superintendent, shall direct and carry on a public education and information program and assist and cooperate with all governmental or private agencies, organizations or groups in order to encourage better and safer driving practices, better law enforcement, and more uniform penalties, for the purpose of reducing the number of motor vehicle accidents.

The director shall coordinate and strengthen the highway and traffic safety activities of the state of North Dakota and its political subdivisions. He shall specifically promote the coordination of the functions of driver licensing and control, financial responsibility, traffic law enforcement, and other highway and traffic safety activities of the state highway patrol, state highway department, and the motor vehicle registrar, and shall generally work and cooperate with the officials in charge of these departments and all public officials in all matters relating to motor vehicle safety.

All supplies and equipment of the public safety division of the highway department are hereby transferred to the public safety division of the highway patrol created by this Act.

§ 3. Repeal.) Chapter 24-14 of the North Dakota Century Code is hereby repealed.

Approved March 18, 1963.

CHAPTER 268

S. B. No. 153
(Luick, Bopp, Kjos)

RESCISSION OF VEHICLE REGISTRATION

AN ACT

To amend and reenact section 39-04-06 of the North Dakota Century Code, relating to the rescinding of motor vehicle registration.

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

§ 1. Amendment.) Section 39-04-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-04-06. When Registration Rescinded.) The department shall rescind and cancel the registration of a motor vehicle:

1. When the department shall determine that a vehicle is unsafe or unfit to be operated or is not equipped as required by law; or

2. Whenever the person to whom the registration card or registration number plates therefor have been issued shall make or permit to be made any unlawful use of the same or permit the use thereof by a person or on a motor vehicle not entitled thereto; or
3. Whenever the reciprocity commission finds that a vehicle which is registered in accordance with a reciprocity agreement, arrangement or declaration and such vehicle is operated in violation of such agreement.

Whenever a check is returned to the department for want of payment the department shall rescind and cancel the registration of the motor vehicle covered by such check thirty days after notification by regular mail. When payment of the registration fee is made the registration shall be renewed.

Approved March 16, 1963.

CHAPTER 269

S. B. No. 257

(Meidinger, Lips, Mutch)

NUMBER PLATE STANDARDS

AN ACT

To amend and reenact section 39-04-12 of the North Dakota Century Code, relating to the issuance of motor vehicle license plates.

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

§ 1. **Amendment.**) Section 39-04-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-04-12. Contents of Number Plates—Size of Letters and Numerals on Plates—Reflectorized—Tabs or Stickers—Additional Fee.) Number plates shall be of metal or other suitable material bearing the name of the state, either in full or by abbreviation, the number of the year, the slogan "Peace Garden State" and a distinctive number for assignment to each vehicle. The distinctive number may be in figures or a combination of figures and letters and shall be of a size clearly distinguishable by law enforcement officers and individuals generally. To reduce highway accidents at night all such number plates shall be legible for a minimum distance of one hundred feet to an approaching motorist by day or night with lawful headlight beams and without other illumination. Each standard six inch by twelve inch finished numeral plate except

trailer plates and dealers' plates shall be treated with a reflectorized material according to the specifications prescribed by the registrar. The registrar shall furnish such number plates for a four-year period commencing January 1, 1958. In any year during which number plates are not furnished the registrar shall furnish for each annual registration a year plate, tab, or sticker to designate the year of registration. This plate, tab, or sticker shall show the calendar year for which issued, and is valid only for that year. It shall be unlawful for any person to transfer to another vehicle the number plate, tab, or sticker during the period or calendar year for which issued. For the purpose of procuring number plates which are treated for increased visibility as hereinbefore provided, an additional fee of fifty cents per year for each registration of a vehicle shall be added to the registration fee, which additional fee shall be deposited by the registrar with the state treasurer. The funds so deposited shall be known as the "license plate revolving fund" and disbursements therefrom shall be made by warrants drawn by the registrar on vouchers duly approved by the department of accounts and purchases.

The motor vehicle registrar may, in his discretion, provide special plates marked with initials, letters, or combination of numerals and letters at the request of the registrant, upon application therefor and upon payment of an additional fee of one hundred dollars. In the event of sale or transfer of the vehicle, the special plates shall be surrendered and upon application, a regular license plate shall be issued without additional cost.

Approved March 9, 1963.

CHAPTER 270

H. B. No. 629

(Connolly, Reimers, Hofstrand, Streibel, Johnston, Vendsel)

RENEWAL OF REGISTRATIONS

AN ACT

To amend and reenact sections 39-04-14 and 39-14-15 and to create and enact section 39-04-15.1 of the North Dakota Century Code, relating to the registration of motor vehicles and providing for the installment registration of vehicles with a gross weight in excess of thirty-six thousand pounds and providing a penalty.

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

§ 1. Amendment.) Section 39-04-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-04-14. Renewal of Registration.) Every vehicle registration, except those described in section 39-05-15.1, under this chapter shall expire December thirty-first each year and shall be renewed annually upon application by the owner and by payment of the fees required by law, such renewal to take effect on the first day of January each year. An owner who has made proper application for renewal of registration of a vehicle previous to January first but who has not received the number plates, plate, or registration card for the ensuing year shall be entitled to operate or permit the operation of such vehicle upon the highways upon displaying thereon the number plates or plate issued for the preceding year for such time, to be prescribed by the department, as may be required for the issuance of such new plates.

§ 2. Amendment.) Section 39-04-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-04-15. When Registration Fees Become Due and Delinquent.) The registration fee for a motor vehicle shall become due as soon as such vehicle first is used upon the highways of this state and, except as otherwise provided in this chapter, upon January first in each year thereafter. The annual registration fee shall be paid upon transfer of ownership in the vehicle and in any event on or before February first, and shall be delinquent after February first unless paid. Except as otherwise provided in this chapter, license fees falling due between February first and December thirty-first shall become delinquent upon the expiration of five days after the same becomes due.

§ 3. Section 39-04-15.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

39-04-15.1. Installment Registration of Vehicles Licensed for a Gross Weight in Excess of Thirty-Six Thousand Pounds—Delinquencies—Penalty.) All motor vehicles registered for a gross weight in excess of thirty-six thousand pounds, may be registered by the payment of registration fees in two installments, each equal to one-half of the annual fee. Such installments shall be due on January 1, July 1 of each year and delinquent on January 15, and July 15 respectively. A penalty, in addition to that provided in section 39-04-16, of twenty-five dollars shall be added to any installment delinquent under the provisions of this section. When any vehicle is initially registered between installment dates hereunder, the registrar may prorate the fee in equal installments consisting of the date of such initial registration and any unexpired installment dates. The license plates shall be issued upon the payment of the first installment, plus five dollars, but upon default in the payment of any installment, the registrar shall cause the license plates to be removed from the vehicle involved and shall not reissue them until the installment plus penalties have been paid.

Approved March 9, 1963.

CHAPTER 271

S. B. No. 287
(Nelson, Strinden)

FARM TRUCK REGISTRATION

AN ACT

To amend and reenact subsection 5 of section 39-04-19 of the North Dakota Century Code, relating to the registration of farm trucks.

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

§ 1. **Amendment.)** Subsection 5 of section 39-04-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

5. Vehicles having a gross weight of more than 24,000 but not more than 57,000 and which are used as farm vehicles only, shall be entitled to registration upon payment of fifty percent of the fee prescribed in subsection 2b of this section. A farm vehicle shall be considered, for the purpose of this subsection, as a motor vehicle owned and operated by a bona

vide resident farmer who uses such vehicle exclusively for transporting his own property between farms and the usual local trading places and not for hire. The registrar shall issue a distinctive registration plate for such vehicles.

Approved March 8, 1963.

CHAPTER 272

H. B. No. 558

(Tveten, Bilden, Davis (Dickey), Stallman)

CHANGE IN REGISTERED WEIGHT

AN ACT

To amend and reenact section 39-04-23 of the North Dakota Century Code, providing for reregistration of certain trucks at lower weight brackets.

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

§ 1. **Amendment.)** Section 39-04-23 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-04-23. Registered Motor Vehicle Transporting Property May Change Registration to Higher or Lower Gross Weight.)

1. Any owner of a motor vehicle transporting property who has licensed such vehicle for any gross weight limitations, may change such registration to a higher gross weight limitation, by the payment of the difference between the fee required for the new registration and the fee paid for the registration under which the vehicle is being operated. If such owner makes an application for such change of registration, such additional registration fee shall be for the remainder of the year prorated on a monthly basis, one-twelfth of the annual higher registration fee for each calendar month or fraction thereof. In no event shall such fee be less than three dollars.

2. In the event that any owner of a motor vehicle which has been registered at a gross weight of more than 24,000 pounds but less than 42,001 pounds shall alter or remove equipment therefrom which will make it impossible for such vehicle to lawfully operate at the gross weight for which it is registered, the owner may apply to the motor vehicle registrar to have the registered gross weight lowered to an amount equal to the weight at which such vehicle can lawfully operate, but not less than 24,000 pounds. Upon approval

of such change in registration, the motor vehicle registrar shall credit to the owner of the vehicle a sum equal to the difference between the license fee paid at the gross weight at which the vehicle was previously registered and the fee for the new registered weight, multiplied by the fraction of the year remaining in the registration period calculated upon the basis of the number of full months remaining in the calendar year after the date of change in registration.

Approved March 14, 1963.

CHAPTER 273

H. B. No. 628

(Connolly, Hofstrand, Streibel, Vendsel, Reimers, Johnston)

TRANSFER OF REGISTRATION

AN ACT

To amend and reenact section 39-04-36 of the North Dakota Century Code, relating to the transfer of registration and number plates to provide for such transfer in certain instances.

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

§ 1. **Amendment.)** Section 39-04-36 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-04-36. Transfer of Registration and Number Plates Upon Transferring or Assigning Title—Exception.) Whenever the owner of a vehicle registered under the provisions of this chapter transfers or assigns his title thereto or interest therein, the registration of such vehicle, together with the number plates originally assigned thereto, shall be transferred to the transferee as provided in this chapter. The number plates originally assigned to the vehicle must remain attached thereto until the end of the current registration year except that the owner of vehicles described in section 39-04-20 may transfer number plates from one truck to a new replacement truck by compliance with procedures established by the registrar. A five dollar fee shall accompany each such transfer of registration. Whenever the truck from which plates are transferred remains in a motor vehicle dealer's possession in North Dakota, it must be licensed for a minimum weight of 24,000 pounds for the unexpired portion of the registration period. Such vehicle, however, shall not be operated upon the highways of this state until properly licensed therefor under the provisions of this chapter.

Approved March 21, 1963.

CHAPTER 274

H. B. No. 806
(Anderson (Richland))

REGISTRATION FEE DISTRIBUTION

AN ACT

To amend and reenact subdivision a of subsection 3 of section 39-04-39 of the North Dakota Century Code, as amended by the 1961 Legislature, relating to distribution of motor vehicle fees.

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

§ 1. Amendment.) Subdivision a of subsection 3 of section 39-04-39 of the North Dakota Century Code, as amended by the 1961 Legislature, is hereby amended and reenacted to read as follows:

- a. An amount equal to the sum credited and transferred to the counties from such fees for the fiscal year ending June 30, 1960, shall be distributed quarterly to the counties of this state in proportion to the number of motor vehicle registrations credited to each county. Each county shall be credited with the certificates of title of all motor vehicles registered by residents of such county; and

Approved March 21, 1963.

CHAPTER 275

H. B. No. 783
(Burvee, Backes, Schaffer, Stallman)

COMMERCIAL VEHICLE REGISTRATION FEES

AN ACT

To amend and reenact section 39-04A-04 of the North Dakota Century Code, relating to the fee for registration of motor vehicles engaged in transportation of property.

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

§ 1. Amendment.) Section 39-04A-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-04A-04. Fees.) Such annual fees shall be based on the gross weight for which the motor vehicle is licensed by the motor vehicle registrar and shall be in the following amounts:

1. This chapter shall not apply to motor vehicles having a registered gross weight of ten thousand pounds or less;
2. Motor vehicles licensed for a gross weight of twelve thousand pounds or more, and including twenty-four thousand pounds, four dollars for each two thousand pounds of registered gross weight.

The minimum fee shall be ten dollars for each motor vehicle. A resident farmer engaged in the business of custom harvesting shall be entitled to registration under this chapter upon payment of such minimum fee. The fee for motor vehicles placed in service after June thirtieth and before September thirtieth shall be one-half of the annual fee, after September thirtieth, one-fourth of the annual fee.

Approved March 13, 1963.

CHAPTER 276

S. B. No. 159
(Thompson, Longmire)

COMMERCIAL VEHICLE REGISTRATION EXCEPTIONS

AN ACT

To amend and reenact section 39-04A-06 of the North Dakota Century Code, relating to persons who shall not be charged additional fees for use of motor vehicles engaged in transportation of property.

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

§ 1. Amendment.) Section 39-04A-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-04A-06. Exceptions.) This chapter shall not apply to any bona fide resident farmer or beekeeper who shall:

1. Transport property between farms and the usual local trading places, between farms locally, or transport farm equipment owned by a bona fide resident farmer of this state when such farm equipment is transported in vehicles owned by such resident farmer;
2. Transport his own livestock or commodities from his farm with his own truck to any village, market, or place where such livestock and commodities are to be sold, stored, or otherwise disposed of, or transport livestock or commodities from any village, city or place where

same is purchased or acquired to his farm where such supplies are to be used, consumed, or processed;

3. In the normal course of his business exchange work with his neighbors.

In addition, any person transporting property within the city or village limits or not to exceed two miles from the corporate or recognized limit of such city or village shall be excepted from the provisions of this chapter.

Approved March 7, 1963.

CHAPTER 277

H. B. No. 531

(Fitch, Burk, Stockman, Tough, Stallman)
(From LRC Study)

LICENSING MOTOR VEHICLE OPERATORS

AN ACT

To amend and reenact subsection 26 of section 39-01-01, sections 39-06-01, 39-06-02, 39-06-18, 39-06-20, 39-06-26, 39-06-27, 39-06-33, 39-08-14, and 39-08-16 of the North Dakota Century Code, relating to the licensing of motor vehicle operators.

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

§ 1. Amendment.) Subsection 26 of section 39-01-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- *26. "Commissioner" shall mean the commissioner of the North Dakota state highway department, acting directly or through his authorized agents;

§ 2. Amendment.) Section 39-06-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-06-01. Operators Must Be Licensed.) No person, except those hereinafter expressly exempted, shall drive any motor vehicle upon a highway in this state unless such person has a valid license as an operator under the provisions of this chapter. No person shall receive an operator's license unless and until he surrenders to the commissioner all valid operator's licenses in his possession issued to him by any other jurisdiction. All surrendered licenses shall be returned by the

***Note:** This definition was also amended as subsection 7 of section 39-01-01 by section 2 of chapter 264 of the 1963 S.L.

commissioner to the issuing department together with information that the licensee is now licensed in a new jurisdiction. No person shall be permitted to have more than one valid operator's license at any time.

Any person licensed as an operator hereunder may exercise the privilege thereby granted upon all streets and highways in this state and shall not be required to obtain any other license to exercise such privilege by any county, municipal or local board, or body having authority to adopt local police regulations, except that municipalities may license draymen, parcel delivery men, bus drivers, taxi drivers, porters, expressmen, watermen, and others pursuing like occupations, and the operation of taxicabs, as provided by subsection 27 of section 40-05-01.

§ 3. Amendment.) Section 39-06-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-06-02. What Persons Are Exempt from License.) The following persons are exempt from license hereunder:

1. Any employee of the United States Government while operating a motor vehicle owned by or leased to that government and being operated on official business;
2. A nonresident who is at least sixteen years of age, who has in his immediate possession a valid operator's license issued to him in his home state or country, may operate a motor vehicle in this state;
3. A nonresident who is at least sixteen years of age, whose home state or country does not require the licensing of operators, may operate a motor vehicle within this state for a period of not more than thirty days in any calendar year without making an application for or obtaining an operator's license of this state, provided, however, that he shall have in his possession while driving in this state an official certificate showing the lawful registry of the motor vehicle and be able to prove his lawful possession or the right to operate such vehicle and to establish his identity;
4. A member of the armed forces of the United States may operate a motor vehicle in this state while he is stationed in North Dakota, provided he has a valid current operator's license from another state; and
5. A person over sixteen years of age who becomes a resident of the state of North Dakota and who has in his possession a valid operator's license issued to him pursuant to the laws of some other state or province or by military authorities of the United States may operate

a motor vehicle for a period of not more than sixty days after becoming a resident of this state, without being required to have a North Dakota operator's license.

§ 4. Amendment.) Section 39-06-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-06-18. Duplicate Certificates.) In the event that a permit or license issued under the provisions of this chapter is lost, mutilated or destroyed, or contains erroneous information due to a change in name, address, or for any other reason, the person to whom the same was issued may obtain a duplicate, or substitute thereof, upon furnishing proof satisfactory to the commissioner that such permit or license has been lost, mutilated, or destroyed, or is erroneous, and upon payment of a one dollar fee.

§ 5. Amendment.) Section 39-06-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-06-20. Notice of Change of Address or Name.) Whenever any person after applying for or receiving an operator's license shall move from the address named in such application or in the license issued to him or when the name of a licensee is changed by marriage or otherwise such person shall within ten days thereafter notify the commissioner in writing of his old and new addresses or of such former and new names and of the number of any license then held by him. Such person may obtain a corrected license or permit by making application as provided for in section 39-06-18.

§ 6. Amendment.) Section 39-06-26 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-06-26. Reporting Convictions, Suspensions, or Revocations of Nonresidents.) The commissioner may, upon receiving a record of the conviction in this state of a nonresident driver of a motor vehicle of any offense under the motor vehicle laws of this state, forward a certified copy of such record to the licensing authority in the state wherein the person so convicted is a resident.

When a nonresident's operating privilege is suspended or revoked pursuant to any law of this state, the commissioner shall forward a certified copy of the record of such action to the licensing authority in the state wherein such nonresident resides or is licensed.

§ 7. Amendment.) Section 39-06-27 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-06-27. Suspending Licenses Upon Conviction, Suspension, or Revocation in Another State.) The commissioner may suspend or revoke the license of any resident of this state or the privilege of a nonresident to drive a motor vehicle in this state upon receiving notice of the conviction of such person in another state of an offense therein which, if committed in this state, would be grounds for the suspension or revocation of the license of an operator.

Upon receipt of a certification that the operating privileges of a resident of this state have been suspended or revoked in any other state pursuant to a law providing for the suspension or revocation for failure to deposit security for the payment of judgments arising out of a motor vehicle accident, under circumstances which would require the commissioner to suspend a nonresident's operating privileges had the accident occurred in this state, the commissioner shall suspend the license of such resident if he was the driver of a motor vehicle involved in such accident. Such suspension shall continue until such resident furnishes evidence satisfactory to the commissioner of his compliance with the laws of such other state relating to the deposit of security or payment of a judgment arising out of a motor vehicle accident, to the extent that such compliance would be required if the accident had occurred in this state.

§ 8. Amendment.) Section 39-06-33 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-06-33. Hearing Subsequent to License Suspension.) Upon suspending the license of any person as authorized in section 39-06-32, the commissioner shall immediately notify the licensee in writing and upon his request shall afford him an opportunity for a hearing as early as practical within not to exceed twenty days after receipt of such request in the county wherein the licensee resides unless the department and licensee agree that such hearing may be held in some other county. Upon such hearing the commissioner or his duly authorized agent may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers and may require a re-examination of the licensee. Upon such hearing the commissioner shall either rescind his order of suspension or, good cause appearing therefor, may continue, modify, or extend the suspension of such license or revoke such license.

§ 9. Amendment.) Section 39-08-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-08-14. Public Inspection of Reports Relating to Accidents.) 1. All accident reports made by persons involved in

accidents or by garages shall be without prejudice to the individual so reporting and shall be for the confidential use of the department or other state agencies having use for the records for accident prevention purposes, or for the administration of the laws of this state relating to the deposit of security and proof of financial responsibility by persons driving or the owners of motor vehicles, except that the department may disclose the identity of a person involved in an accident when such identity is not otherwise known or when such person denies his presence at such accident.

2. All accident reports and supplemental information filed in connection with the administration of the laws of this state relating to the deposit of security or proof of financial responsibility shall be confidential and not open to general public inspection, nor shall copying of lists of such reports be permitted, except, however, that the accident report by law enforcement or investigating officers may be examined by any person named therein, or by his representative designated in writing.

3. No reports or information mentioned in this section shall be used as evidence in any trial, civil or criminal, arising out of an accident, except that the commissioner shall furnish upon demand of any party to such trial, or upon demand of any court, a certificate showing that a specified accident report has or has not been made to the commissioner in compliance with law.

§ 10. Amendment.) Section 39-08-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-08-16. Any Incorporated City May Require Accident Reports.) Any incorporated city, town, village, or other municipality may by ordinance require that the driver of a vehicle involved in an accident shall file with a designated city department a report of such accident or a copy of any report herein required to be filed with the commissioner. All such reports shall be for the confidential use of the city department and subject to the provisions of section 39-08-14.

Approved March 9, 1963.

CHAPTER 278

H. B. No. 681
(Solberg, Baldwin, Johnston)

RENEWAL OF OPERATORS' LICENSES

AN ACT

To amend and reenact sections 39-06-07, 39-06-15, and 39-06-19 of the North Dakota Century Code, relating to the licensing of motor vehicle operators and to provide an effective date.

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

§ 1. **Amendment.**) Section 39-06-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-06-07. Application for License or Instruction Permit.)

1. Every application for an instruction permit or for an operator's license shall be made upon a form furnished by the commissioner. Every application shall be signed by the applicant with full name. In signing the application the applicant shall be deemed to have certified that all information contained on the application is true and correct and shall be accompanied by the proper fee and payment of such fee shall entitle the applicant to not more than three attempts to pass the examination within a period of six months from the date of application.

2. Every said application shall state the full name, date of birth, sex, and residence address of the applicant, and briefly describe the applicant, and shall state whether the applicant has theretofore been licensed as an operator or chauffeur, and, if so, when and by what state or country, and whether an application has ever been refused, suspended, canceled, or revoked and, if so, the date of and reason for such suspension, cancellation, revocation, or refusal. The application shall contain such other information as the commissioner may require.

3. Whenever an application is received from a person previously licensed in another jurisdiction, the commissioner may request a copy of the driver's record from such other jurisdiction. When received, the driving record shall become a part of the driving record in this state with the same force and effect as though entered on the driving record in this state in the original instance.

4. Whenever the commissioner receives a request for a driving record from another licensing jurisdiction the record shall be forwarded without charge.

§ 2. **Amendment.)** Section 39-06-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-06-15. Commissioner May Appoint Agents to Issue Licenses — Fees.) The commissioner may appoint as many local agents as in his judgment may be deemed necessary for the purpose of issuing and causing to be issued operator's licenses as provided in this chapter. Each such local agent may issue such licenses within or without the county of his residence. The compensation that may be charged by such local agent shall not exceed the sum of ten cents for each such license issued, which sum shall be paid by the person to whom the license is issued, in addition to the license fee provided for in this chapter.

§ 3. **Amendment.)** Section 39-06-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-06-19. Expiration of License—Renewal.) Every operator's license issued under the provisions of this chapter shall expire and be renewed according to the following schedule: The expiration date of operator's license for every person whose year of birth occurred in a year ending in an odd numeral shall be twelve o'clock midnight on the last day of the birth month in the next succeeding year ending in an odd numeral. The expiration date of operator's license for every person whose year of birth occurred in a year ending in an even numeral shall be twelve o'clock midnight on the last day of the birth month in the next succeeding year ending in an even numeral. Application with fee for renewal of license shall be presented to the commissioner not prior to thirty days before the birthdate anniversary of the applicant. The commissioner may require an examination of an applicant as upon an original application. Every person submitting application and fee for renewal of license one year or more after expiration of license shall be treated as a new driver and subject to the examination as upon an original application. The fee for every operator's license shall be three dollars except that a licensee under the age of eighteen shall pay a one dollar and fifty cent fee. Notwithstanding the foregoing provisions the fee for renewal of an operator's license expiring during the year of nineteen hundred sixty-four shall be one dollar and fifty cents except that a licensee under the age of eighteen shall pay a seventy-five cent fee.

§ 4. **Effective Date.)** The provisions of this Act shall become effective on January first, nineteen hundred and sixty-four.

Approved March 9, 1963.

CHAPTER 279

H. B. No. 707
(Stallman, Leahy)

SUSPENSION OF OPERATORS' LICENSES

AN ACT

To amend and reenact section 39-06-39 of the North Dakota Century Code, relating to appeals from the commissioner's decision in the suspension, revocation, or cancellation of a motor vehicle operator's license.

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

§ 1. **Amendment.)** Section 39-06-39 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-06-39. Review by Court.) Any person denied a license or whose license has been canceled, suspended, or revoked by the commissioner under the provisions of this chapter, except where such cancellation or revocation is mandatory, may within thirty days after the determination by the commissioner, file a petition for a hearing of the matter in the district court in the county in which such person shall reside or in the county in which the administrative hearing, if any, was held. In all cases wherein the license of such person was suspended under authority of subsection 2 or 3 of section 39-06-32, the filing of a petition for judicial review as authorized by this section shall have the effect of suspending the order of the commissioner until the court shall review the determination of the commissioner, but in no event for a period exceeding thirty days unless such petition is continued by the court for good cause shown. It shall be the duty of the court to set the matter for hearing, and the petitioner shall give thirty days' written notice thereof to the commissioner. Thereupon the court shall take testimony and examine into the facts of the case and determine anew whether the petitioner is entitled to a license or is subject to suspension, cancellation, or revocation of license under the provisions of this chapter. The decision of the district court may be appealed to the supreme court by either the petitioner or the commissioner, in which event the supreme court shall hear and determine the matter de novo upon the record of the proceedings had in the district court.

The foregoing provisions of this section shall be legibly printed or stamped upon the notice given to the applicant or

licensee informing him of the action taken by the commissioner.

Approved March 7, 1963.

CHAPTER 280

S. B. No. 192
(Kee, Kjos, Luick)

EXCESS SIZE AND WEIGHT PERMITS

AN ACT

To amend and reenact section 39-12-02 of the North Dakota Century Code, relating to authority to grant permits for vehicles of excessive size and weight and to authorize granting of permits for vehicles carrying loads extending more than three feet beyond the front thereof, to establish charges for the issuance of permits and to make an appropriation.

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

§ 1. **Amendment.)** Section 39-12-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-12-02. Special Permits for Vehicles of Excessive Size and Weight Issued—Contents—Fees.) The commissioner and local authorities in their respective jurisdictions, upon application and payment of the appropriate charges and for good cause shown, may issue a special written permit authorizing the applicant to operate or move a vehicle of a size or weight exceeding the maximum specified by this chapter, or with a load extending more than three feet beyond the front thereof, upon a highway under the jurisdiction of the body granting the permit. Every such permit may designate the route to be traversed, and may contain any other restrictions or conditions deemed necessary by the body granting such permit. Every such permit shall be carried in the vehicle to which it refers and shall be opened to inspection by any peace officer. It shall be a violation of the provisions of this chapter for any person to violate any of the terms or conditions of such special permit.

An appropriate charge shall be made for each permit and all funds collected hereunder by the state highway commissioner shall be deposited in the state highway fund and are hereby appropriated for use in the construction and maintenance of highways and operating expenses of the highway department. Official or publicly owned vehicles shall not be required to pay charges for permits.

Approved March 9, 1963.

CHAPTER 281

S. B. No. 161

(Sinner, Thompson, Redlin, Trenbeath)

FINANCIAL RESPONSIBILITY REVOCATION

AN ACT

To amend and reenact subsection 2 of section 39-16-16 of the North Dakota Century Code, relating to proof of financial responsibility and licensing of motor vehicle operators.

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

§ 1. Amendment.) Subsection 2 of section 39-16-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. If a person by final order or judgment is convicted of or forfeits any bail or collateral deposited to secure an appearance for trial for any offense requiring the revocation of license, or for operating a motor vehicle upon the highways while his privilege to drive is under suspension, revocation, or cancellation, or for driving a motor vehicle while under the influence of intoxicating liquor or a narcotic drug, or under the influence of any other drug to a degree which renders him incapable of safely driving a motor vehicle, no license shall be thereafter issued to such person until he shall give and thereafter maintain proof of financial responsibility.

Approved March 9, 1963.

CHAPTER 282

S. B. No. 280

(Ringsak)

UNSATISFIED JUDGMENT FUND PAYMENTS

AN ACT

To amend and reenact sections 39-17-01, 39-17-07 and 39-17-09 of the North Dakota Century Code, relating to payments for and out of the unsatisfied judgment fund.

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

§ 1. Amendment.) Section 39-17-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-17-01. Additional Registration Fee.) At the time of registering a motor vehicle the owner shall pay to the motor vehicle registrar in addition to the registration fees, a fee of one dollar for each motor vehicle registered;

§ 2. Amendment.) Section 39-17-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-17-07. Limitation on Amount Payable from Fund.) No order shall be made by the court directing the payment of more than ten thousand dollars, exclusive of costs, in the case of a judgment resulting from bodily injury to, or the death of, one person in one accident, nor, subject to such limit of ten thousand dollars for each person so injured or killed in one accident, shall an order be made directing the payment of judgments for more than twenty thousand dollars, exclusive of costs, in cases arising out of one accident. In cases where the judgment creditor has effected the collection of a part of his judgment from any source, the amount authorized to be paid from such fund shall be the difference between the amount of the judgment, provided that it does not exceed ten thousand dollars, and the amount realized thereon;

§ 3. Amendment.) Section 39-17-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-17-09. Order of Payment from Fund-Prorate Distribution.) In the event, at the time of the filing of such order, there is not sufficient moneys in said fund to satisfy said order, such order shall be registered by the state treasurer and shall be paid when the moneys are available in said fund and subsequent orders shall be paid therefrom in the order of registration; provided, that if more than two judgments are obtained against a judgment debtor upon causes of action arising out of one accident and the aggregate amount due thereon, after crediting collections, if any, exceeds twenty thousand dollars, the court in making its order shall direct that the state treasurer shall prorate the distribution from the fund in the proportion which each such judgment or the balance unpaid thereon bears to the sum of twenty thousand dollars.

Approved March 6, 1963.

CHAPTER 283

H. B. No. 529

(Fitch, Burk, Stockman, Tough, Stallman)
(From LRC Study)

MOTOR VEHICLE EQUIPMENT

AN ACT

To create and enact subsection 62 of section 39-01-01, sections 39-10-02.1, 39-10-54.1, 39-10-63.1, and chapter 39-21 of the North Dakota Century Code; to amend and reenact subsection 4 of section 24-01-13, sections 39-07-02, 39-07-03, 39-07-04, 39-07-05, 39-07-07, 39-07-11, 39-10-04, 39-10-15, 39-10-23, 39-10-24, 39-10-39, 39-10-44, and 39-10-46 of the North Dakota Century Code, relating to the operation and equipment of motor vehicles, and providing a penalty; and to repeal subsection 1 of section 39-10-22, sections 39-10-10, 39-10-66, and 39-12-10, and chapter 39-11 of the North Dakota Century Code, relating to the operation and equipment of motor vehicles.

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

§ 1. **Amendment.)** Subsection 4 of section 24-01-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. Issue permits authorizing the operation of tractors or traction engines with movable tracks as provided for under subsection 4 of section 39-21-40;

§ 2. **Amendment.)** Subsection 62 of section 39-01-01 of the North Dakota Century Code is hereby created and enacted to read as follows:

- *62. "Implement of husbandry" shall mean every vehicle designed and adapted exclusively for agricultural, horticultural, or livestock raising operations or for lifting or carrying an implement of husbandry.

§ 3. **Amendment.)** Section 39-07-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-07-02. Owner of Property Used for Vehicular Travel May Prohibit or Require Additional Conditions to Use.) The provisions of chapters 39-08 through 39-13, and chapter 39-21, shall not be construed to prevent the owner of real property used by the public for purposes of vehicular travel, by the permission of such owner and not as a matter of right, from

***Note:** This definition was amended as subsection 22 of section 39-01-01 by section 2 of chapter 264 of the 1963 S.L.

prohibiting such use nor from requiring different or additional conditions other than those specified in such chapters or otherwise regulating such use as may seem best to such owner.

§ 4. **Amendment.)** Section 39-07-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-07-03. Through Highways Designated by Commissioner and Local Authorities—“Stop” and “Yield” Intersections.) The commissioner with reference to state highways, and local authorities, with reference to highways under their jurisdiction, may, by proclamation, designate as through highways, any highway, street, or part thereof, and erect stop signs or yield signs at specified entrances thereto, or may designate any intersection as a stop intersection or as a yield intersection and erect stop signs or yield signs at one or more entrances to such intersection.

§ 5. **Amendment.)** Section 39-07-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-07-04. Powers of Local Authorities.) Except as expressly authorized by section 39-09-03 and section 39-07-03, local authorities may not alter any speed limitations declared in chapter 39-09, or enforce any rule or regulation contrary to the provisions of chapters 39-08 through 39-13, and chapter 39-21. Local authorities, under ordinance, shall have the power to:

1. Regulate traffic by means of traffic officers, semaphores, or other signaling devices on any portion of the highway where traffic is heavy or continuous;
2. Prohibit other than one-way traffic upon certain highways;
3. Regulate the use of the highways by processions or assemblages;
4. Regulate the speed of vehicles in public parks. Adequate signs giving notice of any such special speed limit that may be provided for shall be erected and placed in the entrances to all such parks;
5. Regulate and control the use of public and private parking lots; and
6. Provide a multi-lane system of traffic control where the width of the highway and other conditions permit.

§ 6. **Amendment.)** Section 39-07-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-07-05. Applicability of Provisions of Chapters.) The provisions of chapters 39-08 through 39-13, and chapter 39-21, applicable to the drivers of vehicles upon the highways shall apply to the drivers of all vehicles owned or operated by this state or any county, district, or other political subdivision of this state subject to such specific exceptions as are set forth in such chapters. The provisions of such chapters shall not apply to persons, teams, motor vehicles, and other equipment while actually engaged in work upon the surface of a highway and other procedures that are necessary and are carried on in a safe and prudent manner but shall apply to such persons and vehicles when traveling to or from such work.

§ 7. Amendment.) Section 39-07-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-07-07. Arresting Person for Violating Traffic Regulations—Duty of Officer Arresting.) Whenever any person is arrested for the violation of any of the provisions of chapters 39-08 through 39-13, and chapter 39-21, the officer arresting such person, except as otherwise provided in section 39-07-09, shall:

1. Take the name and address of such person;
2. Take the license number of his motor vehicle; and
3. Issue a summons or otherwise notify him in writing to appear at a time and place to be specified in such summons or notice.

§ 8. Amendment.) Section 39-07-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-07-11. Magistrates to Keep Record of Convictions of Traffic Regulations.) Every magistrate in this state shall keep a full record of every case in which a person is charged with a violation of any provision of chapters 39-08 through 39-13, and chapter 39-21.

§ 9.) Section 39-10-02.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

39-10-02.1. Persons Riding Bicycles, Animals, or Driving Animal-Drawn Vehicles.) In addition to any special regulations, any person riding a bicycle, an animal, or driving any animal-drawn vehicle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by this chapter, except those provisions which by their very nature can have no application.

§ 10. Amendment.) Section 39-10-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-10-04. Obedience to and Required Traffic-Control Devices.) The driver of any vehicle shall obey the instructions of any official traffic-control device applicable thereto placed in accordance with the provisions of this chapter, unless otherwise directed by a traffic or police officer, subject to the exceptions granted the driver of an authorized emergency vehicle in this chapter. No provision of this chapter for which signs are required shall be enforced against an alleged violator if at the time and place of the alleged violation an official sign is not in proper position and sufficiently legible to be seen by an ordinarily observant person. Whenever a state statute does not state that signs are required, such statute shall be effective even though no signs are erected or in place.

Whenever traffic signs, traffic devices, or traffic control signals are placed in a position approximately conforming to the requirements imposed by law, such signs, devices, and control signals shall be presumed to have been so placed by the official act or direction of lawful authority, unless the contrary shall be established by competent evidence.

Any traffic sign, traffic device, or traffic control signal placed pursuant to the provisions of law and purporting to conform to the lawful requirements pertaining to such signs, devices, or signals shall be presumed to comply with the requirements of law unless the contrary shall be established by competent evidence.

§ 11. Amendment.) Section 39-10-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-10-15. No-Passing Zones.) 1. The state highway commissioner is hereby authorized to determine those portions of any highway where overtaking and passing or driving to the left of the roadway would be especially hazardous and may by appropriate signs or markings on the roadway indicate the beginning and end of such zones and when such signs or markings are in place and clearly visible to an ordinarily observant person every driver of a vehicle shall obey the directions thereof.

2. Where signs or markings are in place to define a no-passing zone as set forth in subsection 1, no driver shall at any time drive on the left side of the roadway within such no-passing zone or on the left side of any pavement striping designed to mark such no-passing zone throughout its length.

§ 12. **Amendment.)** Section 39-10-23 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-10-23. Vehicle Turning Left at Intersection.) The driver of a vehicle within an intersection intending to turn to the left shall yield the right-of-way to any vehicle approaching from the opposite direction which is within the intersection or so close thereto as to constitute an immediate hazard.

§ 13. **Amendment.)** Section 39-10-24 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-10-24. Vehicle Entering Stop or Yield Intersection.) 1. Preferential right-of-way at an intersection may be indicated by stop or yield signs as authorized in section 39-07-03.

2. Except when directed to proceed by a police officer or traffic control signal, every driver of a vehicle approaching a stop intersection indicated by a stop sign shall stop as required by subsection 4 of section 39-10-44 and after having stopped shall yield the right-of-way to any vehicle which has entered the intersection from another highway or which is approaching so closely on said highway as to constitute an immediate hazard.

3. The driver of a vehicle approaching a yield sign shall in obedience to such sign slow down to a speed reasonable for the existing conditions, or shall stop if necessary as provided in subsection 5 of section 39-10-44, and shall yield the right-of-way to any pedestrian legally crossing the roadway on which he is driving, and to any vehicle in the intersection or approaching on another highway so closely as to constitute an immediate hazard. If such driver is involved in a collision with a pedestrian in a crosswalk or a vehicle in the intersection after having driven past a yield sign, such collision shall be deemed prima facie evidence of his failure to yield the right-of-way.

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

39-10-39. Signals by Hand and Arm or Signal Lamps.) 1. Any stop or turn signal when required herein shall be given either by means of the hand and arm or by a signal lamp or lamps, except as otherwise provided in subsection 2 of this section; and

2. Any motor vehicle in use on a highway shall be equipped with, and required signal shall be given by, a signal lamp or lamps when the distance from the center of the top of the

steering post to the left outside limit of the body, cab, or load of such motor vehicle exceeds twenty-four inches, or when the distance from the center of the top of the steering post to the rear limit of the body or load thereof exceeds fourteen feet. The latter measurement shall apply to any single vehicle, also to any combination of vehicles.

§ 15. Amendment.) Section 39-10-44 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-10-44. Stop Signs and Yield Signs.) 1. Preferential right-of-way at an intersection may be indicated by stop signs or yield signs as authorized in section 39-07-03.

2. Every stop sign and every yield sign shall be erected as near as practicable to the nearest line of the crosswalk, on the near side of the intersection or, if there is no crosswalk, then as near as practicable to the nearest line of the intersecting roadway.

3. Every stop sign shall bear the word "STOP" in letters not less than eight inches in height. Every yield sign shall bear the word "YIELD" in letters not less than seven inches in height. Every stop sign and every yield sign shall at night-time be rendered luminous by internal illumination, or by a light projected on the face of the sign or by efficient reflecting elements in the face of the sign.

4. Except when directed to proceed by a police officer or traffic control signal, every driver of a vehicle approaching a stop intersection indicated by a stop sign shall stop before entering the crosswalk on the near side of the intersection or, in the event there is no crosswalk, shall stop at a clearly marked stop line, but if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway.

5. The driver of a vehicle approaching a yield sign if required for safety to stop shall stop before entering the crosswalk on the near side of the intersection or, in the event there is no crosswalk, at a clearly marked stop line, but if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway.

§ 16. Amendment.) Section 39-10-46 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-10-46. Overtaking and Passing School Bus.) 1. The driver of a vehicle upon a highway outside of a business or residence district upon meeting or overtaking from either

direction any school bus which has stopped on the highway for the purpose of receiving or discharging any school children shall stop the vehicle before reaching such school bus when there is in operation on said school bus a visual signal as specified in section 39-21-18 and said driver shall not proceed until such school bus resumes motion, or until signaled by the school bus driver to proceed or the visual signals are no longer actuated.

2. Every bus used for the transportation of school children shall bear upon the front and rear thereof plainly visible signs containing the words "SCHOOL BUS" in letters not less than eight inches in height, and in addition shall be equipped with visual signals meeting the requirements of section 39-21-18, which shall be actuated by the school bus driver whenever, but only whenever, such vehicle is stopped on the highway for the purpose of receiving or discharging school children.

3. When a school bus is being operated upon a highway for purposes other than the actual transportation of children, all markings thereon indicating "SCHOOL BUS" shall be covered.

4. The driver of a vehicle upon a highway with separate roadways need not stop upon meeting or passing a school bus which is on a different roadway or when upon a controlled-access highway and the school bus is stopped in a loading zone which is a part of or adjacent to such highway and where pedestrians are not permitted to cross the roadway.

§ 17.) Section 39-10-54.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

39-10-54.1. Opening and Closing Vehicle Doors.) No person shall open the door of a motor vehicle on the side available to moving traffic unless and until it is reasonably safe to do so, nor shall any person leave a door open on the side of a vehicle available to moving traffic for a period of time longer than necessary to load or unload passengers.

§ 18.) Section 39-10-63.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

39-10-63.1. Lamps and Other Equipment on Bicycles.) 1. Every bicycle when in use at nighttime shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least five hundred feet to the front and with a red reflector on the rear of a type approved by the registrar which shall be visible from all distances from fifty to five hundred feet to the rear when directly in front of the lawful upper beams of head lamps on a motor vehicle. A lamp emitting a red light visible from a distance of five hundred feet to the rear may be used in addition to the red reflector.

2. Every bicycle shall be equipped with a brake which will enable the operator to make the braked wheels skid on dry, level, clean pavement.

§ 19.) Chapter 39-21 of the North Dakota Century Code is hereby created and enacted to read as follows:

CHAPTER 39-21

EQUIPMENT OF VEHICLES

39-21-01. When Lighted Lamps Are Required.) Every vehicle upon a highway within this state at any time from a half hour after sunset to a half hour before sunrise and at any other time when, due to insufficient light or unfavorable atmospheric conditions, persons and vehicles on the highway are not clearly discernible at a distance of five hundred feet ahead shall display lighted lamps and illuminating devices as hereinafter respectively required for different classes of vehicles, subject to exceptions with respect to parked vehicles. No motor vehicle shall be operated upon the highways or streets of this state with only the parking lights turned on.

39-21-02. Visibility Distance and Mounted Height of Lamps.) 1. Whenever requirement is hereinafter declared as to distance from which certain lamps and devices shall render objects visible or within which such lamps or devices shall be visible, said provisions shall apply during the times stated in section 39-21-01 in respect to a vehicle without load when upon a straight, level, unlighted highway under normal atmospheric conditions unless a different time or condition is expressly stated.

2. Whenever requirement is hereinafter declared as to the mounted height of lamps or devices it shall mean from the center of such lamp or device to the level ground upon which the vehicle stands when such vehicle is without a load.

39-21-03. Head Lamps on Motor Vehicles.) 1. Every motor vehicle other than a motorcycle or motor-driven cycle shall be equipped with at least two head lamps with at least one on each side of the front of the motor vehicle, which head lamps shall comply with the requirements and limitations set forth in this chapter.

2. Every motorcycle and every motordriven cycle shall be equipped with at least one and not more than two head lamps which shall comply with the requirements and limitations of this chapter.

3. Every head lamp upon every motor vehicle, including every motorcycle and motor-driven cycle, shall be located at a height measured from the center of the head lamp of not

more than fifty-four inches nor less than twenty-four inches to be measured as set forth in subsection 2 of section 39-21-02.

39-21-04. Tail Lamps.) 1. Every motor vehicle, trailer, semitrailer and pole trailer, and any other vehicle which is being drawn at the end of a train of vehicles, shall be equipped with at least one tail lamp mounted on the rear, which, when lighted as hereinbefore required, shall emit a red light plainly visible from a distance of one thousand feet to the rear, provided that in the case of a train of vehicles only the tail lamp on the rearmost vehicle need actually be seen from the distance specified. Every such above-mentioned vehicle, other than a truck tractor, registered in this state and manufactured or assembled after January 1, 1964 shall be equipped with at least two tail lamps mounted on the rear, on the same level and as widely spaced laterally as practicable, which, when lighted as herein required, shall comply with the provisions of this section.

2. Every tail lamp upon every vehicle shall be located at a height of not more than seventy-two inches nor less than twenty inches.

3. Either a tail lamp or a separate lamp shall be so constructed and placed as to illuminate with a white light the rear registration plate and render it clearly legible from a distance of fifty feet to the rear. Any tail lamp or tail lamps, together with any separate lamp for illuminating the rear registration plate, shall be so wired as to be lighted whenever the head lamps or auxiliary driving lamps are lighted.

39-21-05. New Motor Vehicles To Be Equipped with Reflectors.) 1. Every new motor vehicle hereafter sold and operated upon a highway other than a truck tractor shall carry on the rear, either as a part of the tail lamps or separately, two red reflectors, except that every motorcycle and every motor-driven cycle shall carry at least one reflector, meeting the requirements of this section, and except that vehicles of the type mentioned in section 39-21-08 shall be equipped with reflectors as required in those sections applicable thereto.

2. Every such reflector shall be mounted on the vehicle at a height not less than twenty inches nor more than sixty inches measured as set forth in subsection 2 of section 39-21-02, and shall be of such size and characteristics and so mounted as to be visible as required in section 39-21-11.

39-21-06. Stop Lamps and Turn Signals Required on New Motor Vehicles.) 1. No person shall sell or offer for sale or operate on the highways any motor vehicle registered in this state and manufactured or assembled after January 1, 1964 unless it is equipped with at least two stop lamps meeting

the requirements of section 39-21-19, except that a motorcycle, motor-driven cycle or truck tractor manufactured or assembled after said date shall be equipped with at least one stop lamp meeting the requirements of said section 39-21-19.

2. No person shall sell or offer for sale or operate on the highways any motor vehicle, trailer or semitrailer registered in this state and manufactured or assembled after January 1, 1952 unless it is equipped with electrical turn signals in good working order, meeting the requirements of section 39-21-19. This subsection shall not apply to any motorcycle, motor-driven cycle, or trailer or semitrailer of less than three thousand pounds gross weight.

39-21-07. Application of Succeeding Sections.) Those sections of this chapter which follow immediately, including sections 39-21-08, 39-21-09, 39-21-10, 39-21-11, and 39-21-12, relating to clearance and marker lamps, reflectors, and stop lights, shall apply as stated in said sections to vehicles of the type therein enumerated, namely passenger buses, trucks, truck tractors, and certain trailers, semitrailers and pole trailers, respectively, when operated upon any highway, and said vehicles shall be equipped as required and all lamp equipment required shall be lighted at the times mentioned in section 39-21-01, except that clearance and side marker lamps need not be lighted on any said vehicle when operated within any municipality where there is sufficient light to render clearly discernible persons and vehicles on the highway at a distance of five hundred feet.

39-21-08. Additional Equipment Required on Certain Vehicles.) In addition to other equipment required in this chapter, the following vehicles shall be equipped as herein stated under the conditions stated in section 39-21-07:

1. On every bus, truck, trailer, or semitrailer there shall be the following:

a. On the rear, two reflectors, one at each side, and one stop light. A trailer or semitrailer which is not so loaded or of such dimensions as to obscure the stop light on the towing vehicle, need not be equipped with a stop light.

2. On every bus, truck, trailer, or semitrailer eighty inches or more in overall width there shall be the following:

a. On the rear, two reflectors, one at each side, two clearance lamps, one at each side, and one stop light;
b. On the front, two clearance lamps, one at each side;

3. On every truck tractor there shall be the following:

a. On the front, two clearance lamps, one at each side;
b. On the rear, one stop light;

4. On every pole trailer there shall be the following:
 - a. On the rear of the pole trailer or load, two reflectors, one at each side.
 - b. In addition, on pole trailers exceeding three thousand pounds gross weight, there shall be on each side one side marker lamp and one clearance lamp which may be in combination, to show to the front, side, and rear.

39-21-09. Color of Clearance Lamps, Side Marker Lamps, Back-up Lamps and Reflectors.) 1. Front clearance lamps and those marker lamps and reflectors mounted on the front or on the side near the front of a vehicle shall display or reflect an amber color.

2. Rear clearance lamps and those marker lamps and reflectors mounted on the rear or on the sides near the rear of a vehicle shall display or reflect a red color.

3. All lighting devices and reflectors mounted on the rear of any vehicle shall display or reflect a red color, except that the light illuminating the license plate shall be white and the light emitted by a back-up lamp shall be white or amber.

39-21-10. Mounting of Reflectors, Clearance Lamps and Side Marker Lamps.) 1. Reflectors when required by section 39-21-08 shall be mounted at a height not less than twenty-four inches and not higher than sixty inches above the ground on which the vehicle stands, except that if the highest part of the permanent structure of the vehicle is less than twenty-four inches the reflector at such point shall be mounted as high as that part of the permanent structure will permit. The rear reflectors on a pole trailer may be mounted on each side of the bolster or load. Any required red reflector on the rear of a vehicle may be incorporated with the tail lamp, but such reflector shall meet all the other reflector requirements of this chapter.

2. Clearance lamps shall be mounted on the permanent structure of the vehicle in such a manner as to indicate its extreme width and as near the top thereof as practicable. Clearance lamps and side marker lamps may be mounted in combination provided illumination is given as required herein with reference to both.

39-21-11. Visibility of Reflectors, Clearance Lamps and Marker Lamps.) 1. Every reflector upon any vehicle referred to in section 39-21-08 shall be of such size and characteristics and so maintained as to be readily visible at nighttime from all distances within six hundred feet to one hundred feet from the vehicle when directly in front of lawful upper beams

of head lamps. Reflectors required to be mounted on the sides of the vehicle shall reflect the required color of light to the sides, and those mounted on the rear shall reflect a red color to the rear.

2. Front and rear clearance lamps shall be capable of being seen and distinguished under normal atmospheric conditions at the times lights are required at a distance of five hundred feet from the front and rear, respectively, of the vehicle.

3. Side marker lamps shall be capable of being seen and distinguished under normal atmospheric conditions at the times lights are required at a distance of five hundred feet from the side of the vehicle on which mounted.

39-21-12. Obstructed Lights Not Required.) Whenever motor and other vehicles are operated in combination during the time that lights are required, any lamp need not be lighted which, by reason of its location on a vehicle of the combination, would be obscured by another vehicle of the combination, but this shall not affect the requirement that lighted clearance lamps be displayed on the front of the foremost vehicle required to have clearance lamps, nor that all lights required on the rear of the rearmost vehicle of any combination shall be lighted.

39-21-13. Lamp or Flag on Projecting Load.) Whenever the load upon any vehicle extends to the rear four feet or more beyond the bed or body of such vehicle there shall be displayed at the extreme rear end of the load, at the time specified in section 39-21-01, a red light or lantern plainly visible from a distance of at least six hundred feet to the sides and rear. The red light or lantern required under this section shall be in addition to the red rear light required upon every vehicle. At any other time there shall be displayed at the extreme rear end of such load a red flag or cloth not less than twelve inches square and so hung that the entire area is visible to the driver of a vehicle approaching from the rear.

39-21-14. Lamps on Parked Vehicles.) 1. Whenever a vehicle is lawfully parked upon a street or highway during the hours between a half hour after sunset and a half hour before sunrise and in the event there is sufficient light to reveal any person or object within a distance of five hundred feet upon such street or highway no lights need be displayed upon such parked vehicle.

2. Whenever a vehicle is parked or stopped upon a roadway or shoulder adjacent thereto, whether attended or unattended, during the hours between a half hour after sunset and a half hour before sunrise and there is not sufficient light to reveal any person or object within a distance of one thousand

feet upon such highway, such vehicle so parked or stopped shall be equipped with one or more lamps meeting the following requirements: at least one lamp shall display a white or amber light visible from a distance of one thousand feet to the front of the vehicle, and the same lamp or at least one other lamp shall display a red light visible from a distance of one thousand feet to the rear of the vehicle, and the location of said lamp or lamps shall always be such that at least one lamp or combination of lamps meeting the requirements of this section is installed as near as practicable to the side of the vehicle which is closest to passing traffic. Local authorities may provide by ordinance that no lights need be displayed upon any such motor vehicle when parked upon a highway where the speed limit in effect does not exceed thirty miles per hour in accordance with local ordinances, where there is sufficient light to reveal any person within a distance of two hundred feet upon such highway. The foregoing provisions shall not apply to a motor-driven cycle.

3. Any lighted head lamps upon a parked vehicle shall be depressed or dimmed.

39-21-15. Lamps on Farm Tractors, Farm Equipment and Implements of Husbandry.) Every farm tractor, self-propelled unit of farm equipment, or towed implement of husbandry, when operated upon the highways of this state during the times mentioned in section 39-21-01, shall be equipped as follows:

1. Tractors and self-propelled units of farm equipment shall be equipped with two single-beam or multiple-beam head lamps meeting the requirements of section 39-21-20 or section 39-21-22, or as an alternative, section 39-21-24, provided, that a tractor or self-propelled unit of farm equipment which is not equipped with an electrical system shall be equipped with at least one lamp displaying a white light visible when lighted from a distance of not less than one thousand feet to the front of such vehicle. Every tractor and self-propelled unit of farm equipment shall be equipped with at least one lamp displaying a red light visible when lighted from a distance of one thousand feet to the rear of such vehicle. In addition, every self-propelled unit of farm equipment shall be equipped with two red reflectors visible from all distances from six hundred feet to one hundred feet to the rear when directly in front of lawful upper beams of head lamps.

2. Every towed unit of farm equipment or implement of husbandry shall be equipped with at least one lamp displaying a red light visible when lighted from a distance of one thousand feet to the rear or two red reflectors visible from all distances within six hundred to one hundred feet to the rear when directly in front of lawful upper beams of head lamps.

In addition, if the extreme left projection of such towed unit of farm equipment or implement of husbandry extends beyond the extreme left projection of the towing tractor or vehicle, such unit or implement shall be equipped with at least one amber lamp or reflector mounted to indicate as nearly as practicable the extreme left projection and visible from all distances within six hundred feet to one hundred feet to the front thereof when illuminated by the upper beams of head lamps and at least one red lamp or reflector so mounted and visible from such distances to the rear.

The lamps and reflectors required by this section shall be so positioned as to show from front and rear as nearly as practicable the extreme projection of the vehicle carrying them on the side of the roadway used in passing such vehicle. If a farm tractor or a unit of farm equipment, whether self-propelled or towed, is equipped with two or more lamps or reflectors visible from the front or two or more lamps or reflectors visible from the rear, such lamps or reflectors shall be so positioned that the extreme projections both to the left and to the right of said vehicle shall be indicated as nearly as is practicable.

39-21-16. Lamps on Other Vehicles and Equipment.) Every vehicle, including animal-drawn vehicles and vehicles referred to in subsection 3 of section 39-21-46, not specifically required by the provisions of this chapter to be equipped with lamps or other lighting devices, shall at all times specified in section 39-21-01 be equipped with at least one lamp displaying a white light visible from a distance of not less than five hundred feet to the front of said vehicle, and shall also be equipped with two lamps displaying red light visible from a distance of not less than five hundred feet to the rear of said vehicle, or two red reflectors visible for distances of one hundred feet to six hundred feet to the rear when illuminated by the upper beams of head lamps.

39-21-17. Spot Lamps and Auxiliary Lamps.) 1. Spot lamps. Any motor vehicle may be equipped with not to exceed two spot lamps and every lighted spot lamp shall be so aimed and used upon approaching another vehicle that no part of the high-intensity portion of the beam will be directed to the left of the prolongation of the extreme left side of the vehicle nor more than one hundred feet ahead of the vehicle.

2. Fog lamps. Any motor vehicle may be equipped with not to exceed two fog lamps mounted on the front at a height not less than twelve inches nor more than thirty inches above the level surface upon which the vehicle stands and so aimed that when the vehicle is not loaded none of the high-intensity portion of the light to the left of the center of the vehicle

shall at a distance of twenty-five feet ahead project higher than a level of four inches below the level of the center of the lamp from which it comes. Lighted fog lamps meeting the above requirements may be used with lower head-lamp beams as specified in subsection 2 of section 39-21-20.

3. Auxiliary passing lamps. Any motor vehicle may be equipped with not to exceed two auxiliary passing lamps mounted on the front at a height not less than twenty-four inches nor more than forty-two inches above the level surface upon which the vehicle stands. The provisions of section 39-21-20 shall apply to any combination of head lamps and auxiliary passing lamps.

4. Auxiliary driving lamps. Any motor vehicle may be equipped with not to exceed two auxiliary driving lamps mounted on the front at a height not less than sixteen inches nor more than forty-two inches above the level surface upon which the vehicle stands. The provisions of section 39-21-20 shall apply to any combination of head lamps and auxiliary driving lamps.

39-21-18. Audible and Visual Signals on Vehicles.) 1. Every authorized emergency vehicle shall, in addition to any other equipment and distinctive markings required by this chapter, be equipped with a siren, exhaust whistle or bell capable of causing a minimum sound intensity level of eighty-five decibels, such siren or signal shall be mounted outside of the vehicle or in front of the radiator.

2. Every school bus, except passenger vehicles having a capacity of six persons or less and station wagons having a capacity of nine passengers or less, and every authorized emergency vehicle shall, in addition to any other equipment and distinctive markings required by this chapter, be equipped with signal lamps mounted as high and as widely spaced laterally as practicable, which shall be capable of displaying to the front two alternately flashing red lights located at the same level and to the rear two alternately flashing red lights located at the same level, and these lights shall have sufficient intensity to be visible at five hundred feet in normal sunlight.

3. A police vehicle when used as an authorized emergency vehicle may but need not be equipped with alternately flashing red lights specified herein.

4. The use of the signal equipment described herein shall impose upon drivers of other vehicles the obligation to yield right-of-way and stop as prescribed in sections 39-10-26 and 39-10-46.

39-21-19. Signal Lamps and Signal Devices.) 1. Any motor vehicle may be equipped and when required under this chapter

shall be equipped with a stop lamp or lamps on the rear of the vehicle which shall display a red light visible from a distance of not less than one hundred feet to the rear in normal sunlight, and which shall be actuated upon application of the service (foot) brake, and which may but need not be incorporated with one or more other rear lamps.

2. Any motor vehicle may be equipped and when required under this chapter shall be equipped with lamps showing to the front and rear for the purpose of indicating an intention to turn either to the right or left. Such lamps showing to the front shall be located on the same level and as widely spaced laterally as practicable and when in use shall display a white or amber light, or any shade of color between white and amber, visible from a distance of not less than one hundred feet to the front in normal sunlight, and the lamps showing to the rear shall be located at the same level and as widely spaced laterally as practicable and when in use shall display a red or amber light, or any shade of color between red and amber, visible from a distance of not less than one hundred feet to the rear in normal sunlight. Any motor vehicle or combination of vehicles eighty inches or more in overall width, and manufactured or assembled after January, 1964 shall be equipped with the lamps required by this subsection mounted and spaced in the same manner but visible from a distance of not less than five hundred feet to the front and rear in normal sunlight. When actuated such lamps shall indicate the intended direction of turning by flashing the lights showing to the front and rear on the side toward which the turn is made.

3. No stop lamp or signal lamp shall project a glaring light.

39-21-20. Multiple-Beam Road-Lighting Equipment.) Except as hereinafter provided, the head lamps or the auxiliary driving lamp or the auxiliary passing lamp or combination thereof on motor vehicles other than motorcycles or motor-driven cycles shall be so arranged that the driver may select at will between distributions of light projected to different elevations and such lamps may, in addition, be so arranged that such selection can be made automatically, subject to the following limitations:

1. There shall be an uppermost distribution of light, or composite beam, so aimed and of such intensity as to reveal persons and vehicles at a distance of at least three hundred and fifty feet ahead for all conditions of loading.

2. There shall be a lowermost distribution of light, or composite beam, so aimed and of sufficient intensity to reveal persons and vehicles at a distance of at least one hundred feet ahead; and on a straight level road under any condition of

loading none of the high-intensity portion of the beam shall be directed to strike the eyes of an approaching driver.

3. Every new motor vehicle, other than a motorcycle or motor-driven cycle, registered in this state, which has multiple-beam road-lighting equipment shall be equipped with a beam indicator, which shall be lighted whenever the uppermost distribution of light from the head lamps is in use, and shall not otherwise be lighted. Said indicator shall be so designed and located that when lighted it will be readily visible without glare to the driver of the vehicle so equipped.

39-21-21. Use of Multiple-Beam Road-Lighting Equipment.)

Whenever a motor vehicle is being operated on a roadway or shoulder adjacent thereto during the times specified in section 39-21-01, the driver shall use a distribution of light, or composite beam, directed high enough and of sufficient intensity to reveal persons and vehicles at a safe distance in advance of the vehicle, subject to the following requirements and limitations:

1. Whenever a driver of a vehicle approaches an oncoming vehicle within five hundred feet, such driver shall use a distribution of light, or composite beam, so aimed that the glaring rays are not projected into the eyes of the oncoming driver. The lowermost distribution of light, or composite beam, specified in subsection 2 of section 39-21-20 shall be deemed to avoid glare at all times, regardless of road contour and loading.

2. Whenever the driver of a vehicle follows another vehicle within two hundred feet to the rear, except when engaged in the act of overtaking and passing, such driver shall use a distribution of light permissible under this chapter other than the uppermost distribution of light specified in subsection 1 of section 39-21-20.

39-21-22. Single-Beam Road-Lighting Equipment.) Head lamps arranged to provide a single distribution of light shall be permitted on motor vehicles manufactured and sold prior to one year after the effective date of this chapter in lieu of multiple-beam road-lighting equipment herein specified if the single distribution of light complies with the following requirements and limitations:

1. The head lamps shall be so aimed that when the vehicle is not loaded none of the high-intensity portion of the light shall at a distance of twenty-five feet ahead project higher than a level of five inches below the level of the center of the lamp from which it comes, and in no case higher than forty-two inches above the level on which the vehicle stands at a distance of seventy-five feet ahead.

2. The intensity shall be sufficient to reveal persons and vehicles at a distance of at least two hundred feet.

39-21-23. Lighting Equipment on Motor-Driven Cycles.) The head lamp or head lamps upon every motor-driven cycle may be of the single-beam or multiple-beam type but in either event shall comply with the requirements and limitations as follows:

1. Every said head lamp or head lamps on a motor-driven cycle shall be of sufficient intensity to reveal a person or a vehicle at a distance of not less than one hundred feet when the motor-driven cycle is operated at any speed less than twenty-five miles per hour and at a distance of not less than two hundred feet when the motor-driven cycle is operated at a speed of twenty-five or more miles per hour, and at a distance of not less than three hundred feet when the motor-driven cycle is operated at a speed of thirty-five or more miles per hour.

2. In the event the motor-driven cycle is equipped with a multiple-beam head lamp or head lamps the upper beam shall meet the minimum requirements set forth above and shall not exceed the limitations set forth in subsection 1 of section 39-21-20 and the lowermost beam shall meet the requirements applicable to a lowermost distribution of light as set forth in subsection 2 of section 39-21-20.

3. In the event the motor-driven cycle is equipped with a single-beam lamp or lamps, said lamp or lamps shall be so aimed that when the vehicle is loaded none of the high-intensity portion of light, at a distance of twenty-five feet ahead, shall project higher than the level of the center of the lamp from which it comes.

39-21-24. Arrest for Improperly Adjusted Head Lamps or Improper Bulbs—Certificate of Conformance a Defense.) The driver of any motor vehicle equipped with approved head lamps, auxiliary driving lamps, rear lamps, or signal lamps who is arrested upon the charge that such lamps are adjusted improperly or are equipped with bulbs of a candlepower not approved for use therewith, shall be allowed forty-eight hours within which to bring such lamps into conformance with the requirements of this chapter. It shall be a defense to any such charge that the person arrested produces in court or submits to the state's attorney a certificate showing that within forty-eight hours after such arrest such lamps have been made to conform with the requirements of this chapter.

39-21-25. Number of Driving Lamps Required or Permitted.) 1. At all times specified in section 39-21-01 at least two lighted lamps shall be displayed, one on each side at the

front of every motor vehicle other than a motorcycle or motor-driven cycle, except when such vehicle is parked subject to the regulations governing lights on parked vehicles.

2. Whenever a motor vehicle equipped with head lamps as herein required is also equipped with any auxiliary lamps or a spot lamp or any other lamp on the front thereof projecting a beam of intensity greater than three hundred candlepower, not more than a total of four of any such lamps on the front of a vehicle shall be lighted at any one time when upon a highway.

39-21-26. Special Restrictions on Lamps.) 1. Any lighted lamp or illuminating device upon a motor vehicle, other than head lamps, spot lamps, auxiliary lamps, flashing turn signals, emergency vehicle warning lamps and school bus warning lamps, which projects a beam of light of an intensity greater than three hundred candlepower shall be so directed that no part of the high-intensity portion of the beam will strike the level of the roadway on which the vehicle stands at a distance of more than seventy-five feet from the vehicle.

2. No person shall drive or move any vehicle or equipment upon any highway with any lamp or device thereon displaying a red or green light visible from directly in front of the center thereof. This section shall not apply to any vehicle upon which a red light visible from the front is expressly authorized or required by this chapter.

3. Flashing lights are prohibited except on an authorized emergency vehicle, school bus, snow removal equipment or on any vehicle as a means of indicating a right or left turn, or the presence of a vehicular traffic hazard requiring unusual care in approaching, overtaking or passing.

39-21-27. Special Lighting and Warning Equipment on School Buses.) 1. The superintendent of public instruction in cooperation with the registrar is authorized to adopt standards and specifications applicable to lighting equipment on and special warning devices to be carried by school buses and other vehicles transporting children to school for compensation, consistent with the provisions of this chapter, but supplemental thereto. Such standards and specifications shall correlate with and, so far as possible, conform to the specifications then current as approved by the Society of Automotive Engineers.

2. It shall be unlawful to operate any flashing warning signal light on any school bus except when any said school bus is stopped on a highway for the purpose of permitting school children to board or alight from said school bus.

39-21-27.1. School Bus Standards.) Only motor vehicles which have been designed by the manufacturer for the pur-

pose of carrying passengers shall be used as school buses. The superintendent of public instruction may adopt reasonable regulations, consistent with the provisions of this chapter, relating to the construction, design, operation, equipment and color of school buses and shall prepare and publish standards for North Dakota school buses which shall set forth the regulations. The superintendent of public instruction may issue an order prohibiting the operation on public streets, highways and elsewhere of any school bus which does not comply with the regulations, and school districts operating buses which do not meet the regulations will not be eligible to receive state reimbursement for vehicular transportation.

Highway patrolmen and all peace officers are authorized to make necessary investigations relating to compliance with the regulations adopted by the superintendent of public instruction and to make reports of their findings to the office of the superintendent of public instruction.

39-21-28. Standards for Lights on Snow-Removal or Other Hazardous Equipment.) 1. The highway commissioner shall adopt standards and specifications applicable to head lamps, clearance lamps, identification and other lamps on snow-removal or other hazardous equipment when operated on the highways of this state in lieu of the lamps otherwise required on motor vehicles by this chapter. Such standards and specifications may permit the use of flashing lights for purposes of identification on snow-removal equipment when in service upon the highways. The standards and specifications for lamps referred to in this section shall correlate with and, so far as possible, conform with those approved by the American Association of State Highway Officials.

2. It shall be unlawful to operate any snow-removal equipment on any highway unless the lamps thereon comply with and are lighted when and as required by the standards and specifications adopted as provided in this section.

39-21-29. Selling or Using Lamps or Equipment.) 1. No person shall have for sale, sell or offer for sale for use upon or as a part of the equipment of a motor vehicle, trailer or semitrailer, or use upon any such vehicle any head lamp, auxiliary, or fog lamp, rear lamp, signal lamp or reflector, which reflector is required hereunder, or parts of any of the foregoing which tend to change the original design or performance, unless of a type which has been submitted to the registrar and approved by him. The foregoing provisions of this section shall not apply to equipment in actual use when this section is adopted or replacement parts therefor.

2. No person shall have for sale, sell or offer for sale for use upon or as a part of the equipment of a motor vehicle,

trailer or semitrailer any lamp or device mentioned in this section which has been approved by the registrar unless such lamp or device bears thereon the trademark or name under which it is approved so as to be legible when installed.

3. No person shall use upon any motor vehicle, trailer or semitrailer any lamps mentioned in this section unless said lamps are mounted, adjusted and aimed in accordance with instructions of the registrar.

39-21-30. Authority of Registrar with Reference to Lighting Devices.) 1. The registrar may approve or disapprove lighting devices and issue and enforce regulations establishing standards and specifications for the approval of such lighting devices, their installation, adjustment and aiming, and adjustment when in use on motor vehicles. Such regulations shall correlate with and, so far as practicable, conform to the then current standards and specifications of the Society of Automotive Engineers applicable to such equipment.

2. The registrar shall approve or disapprove any lighting device, of a type on which approval is specifically required in this chapter, within a reasonable time after such device has been submitted.

3. The registrar may set up the procedure which shall be followed when any device is submitted for approval.

4. The registrar upon approving any such lamp or device shall issue to the applicant a certificate of approval together with any instructions determined by him.

39-21-31. Revocation of Certificate of Approval on Lighting Devices.) When the registrar has reason to believe that an approved device as being sold commercially does not comply with the requirements of this chapter, he may, after giving thirty days' previous notice to the person holding the certificate of approval for such device in this state, conduct a hearing upon the question of compliance of said approved device. After said hearing the registrar shall determine whether said approved device meets the requirements of this chapter. If said device does not meet the requirements of this chapter he shall give notice to the person holding the certificate of approval for such device in this state.

If at the expiration of ninety days after such notice the person holding the certificate of approval for such device has failed to satisfy the registrar that said approved device as thereafter to be sold meets the requirements of this chapter, the registrar shall suspend or revoke the approval issued therefor until or unless such device is resubmitted to and retested by an authorized testing agency and is found to meet the requirements of this chapter, and may require that all said

devices sold since the notification following the hearing be replaced with devices that do comply with the requirements of this chapter. The registrar may at the time of the retest purchase in the open market and submit to the testing agency one or more sets of such approved devices, and if such device upon such retest fails to meet the requirements of this chapter, the registrar may refuse to renew the certificate of approval of such device.

39-21-32. Brake Equipment Required.) 1. Every motor vehicle, other than a motorcycle or motor-driven cycle, when operated upon a highway shall be equipped with brakes adequate to control the movement of and to stop and hold such vehicle, including two separate means of applying the brakes, each of which means shall be effective to apply the brakes to at least two wheels. If these two separate means of applying the brakes are connected in any way, they shall be so constructed that failure of any one part of the operating mechanism shall not leave the motor vehicle without brakes on at least two wheels.

2. Every farm tractor, motorcycle, and motor-driven cycle, when operated upon a highway, shall be equipped with at least one brake, which may be operated by hand or foot.

3. Every trailer or semitrailer when operated upon a highway at a speed in excess of fifteen miles per hour shall be equipped with safety chains or brakes adequate to control the movement of and to stop and to hold such vehicle and so designed as to be applied by the driver of the towing motor vehicle from its cab, and said brakes shall be so designed and connected that in case of an accidental break-away of the towed vehicle the brakes shall be automatically applied.

4. One of the means of brake operation shall consist of a mechanical connection from the operating lever to the brake shoes or bands and this brake shall be capable of holding the vehicle, or combination of vehicles, stationary under any condition of loading on any up grade or down grade upon which it is operated.

39-21-33. Maintenance of Brakes.) All brakes shall be maintained in good working order and shall be so adjusted as to operate as equally as practicable with respect to the wheels on opposite sides of the vehicle.

39-21-34. Brakes on Motor-Driven Cycles.) 1. The registrar may require an inspection of the brake on any motor-driven cycle and may disapprove any such brake which in his opinion is not so designed or constructed as to insure reasonable and reliable performance in actual use.

39-21-35. Hydraulic Brake Fluid.) 1. The term "hydraulic brake fluid" as used in this section shall mean the liquid medium through which force is transmitted to the brakes in the hydraulic brake system of a vehicle.

2. Hydraulic brake fluid shall be distributed and serviced with due regard for the safety of the occupants of the vehicle and the public.

3. The registrar shall, after public hearing following due notice, adopt and enforce regulations for the administration of this section and shall adopt and publish standards and specifications for hydraulic brake fluid which shall correlate with, and so far as practicable conform to, the then current standards and specifications of the Society of Automotive Engineers applicable to such fluid.

4. No person shall distribute, have for sale, offer for sale, sell or service any vehicle with any hydraulic brake fluid unless it complies with the requirements of this section.

39-21-36. Horns and Warning Devices.) 1. Every motor vehicle when operated upon a highway shall be equipped with a horn in good working order and capable of emitting sound audible under normal conditions from a distance of not less than two hundred feet, but no horn or other warning device shall emit an unreasonably loud or harsh sound or a whistle. The driver of a motor vehicle shall when reasonably necessary to insure safe operation give audible warning with his horn but shall not otherwise use such horn when upon a highway.

2. No vehicle shall be equipped with nor shall any person use upon a vehicle any siren, whistle or bell, except as otherwise permitted in this section.

3. Any commercial vehicle may be equipped with a theft alarm signal device which is so arranged that it cannot be used by the driver as an ordinary warning signal.

4. Any authorized emergency vehicle may be equipped with a siren, whistle or bell, capable of emitting sound audible under normal conditions from a distance of not less than five hundred feet and of a type approved by the registrar, but such siren shall not be used except when such vehicle is operated in response to an emergency call or in the immediate pursuit of an actual or suspected violator of the law, in which said latter events the driver of such vehicle shall sound said siren when reasonably necessary to warn pedestrians and other drivers of the approach thereof.

39-21-37. Mufflers, Prevention of Noise.) 1. Every motor vehicle shall at all times be equipped with a muffler in good working order and in constant operation to prevent excessive

or unusual noise and annoying smoke, and no person shall use a muffler cut-out, bypass or similar device upon a motor vehicle on a highway.

2. The engine and power mechanism of every motor vehicle shall be so equipped and adjusted as to prevent the escape of excessive fumes or smoke.

39-21-38. Mirrors.) On and after January 1, 1964, every motor vehicle, operated singly or when towing any other vehicle, shall be equipped with a mirror so located as to reflect to the driver a view of the highway for a distance of at least two hundred feet to the rear of such motor vehicle.

39-21-39. Windshields Must Be Unobstructed and Equipped with Wipers.) 1. No person shall drive any motor vehicle with any sign, poster or other nontransparent material upon the front windshield, side wings or side or rear windows of such vehicle which obstructs the driver's clear view of the highway or any intersecting highway.

2. The windshield on every motor vehicle shall be equipped with a device for cleaning rain, snow or other moisture from the windshield, which device shall be so constructed as to be controlled or operated by the driver of the vehicle.

3. Every windshield wiper upon a motor vehicle shall be maintained in good working order.

39-21-40. Restrictions As To Tire Equipment.) 1. Every solid rubber tire on a vehicle shall have rubber on its entire traction surface at least one inch thick above the edge of the flange of the entire periphery.

2. No person shall operate or move on any highway any motor vehicle, trailer or semitrailer having any metal tire in contact with the roadway.

3. No tire on a vehicle moved on a highway shall have on its periphery any block, stud, flange, cleat or spike or any other protuberance of any material other than rubber which projects beyond the tread of the traction surface of the tire, except that it shall be permissible to use farm machinery with tires having protuberances which will not injure the highway, and except also that it shall be permissible to use tire chains of reasonable proportions upon any vehicle when required for safety because of snow, ice or other conditions tending to cause a vehicle to skid.

39-21-41. Safety Glazing Material in Motor Vehicles.) 1. No person shall sell any new motor vehicle as specified herein, nor shall any new motor vehicle as specified herein be registered unless such vehicle is equipped with safety glazing

material of a type approved by the registrar wherever glazing material is used in doors, windows and windshields. The foregoing provisions shall apply to all passenger-type motor vehicles, including passenger buses and school buses, but in respect to trucks, including truck tractors, the requirements as to safety glazing material shall apply to all glazing material used in doors, windows and windshields in the drivers' compartments of such vehicles.

2. The term "safety glazing materials" means glazing materials so constructed, treated or combined with other materials as to reduce substantially, in comparison with ordinary sheet glass or plate glass, the likelihood of injury to persons by objects from exterior sources or by these safety glazing materials when they may be cracked or broken.

3. The registrar shall compile and publish a list of types of glazing material by name approved by him as meeting the requirements of this section and shall not register after January 1, 1964 any motor vehicle which is subject to the provisions of this section unless it is equipped with an approved type of safety glazing material, and he shall thereafter suspend the registration of any motor vehicle so subject to this section which he finds is not so equipped until it is made to conform to the requirements of this section. The requirements of this section shall not apply to antique automobiles licensed under provision of section 39-04-43.

39-21-42. Certain Vehicles To Carry Flares or Other Warning Devices.) 1. No person shall operate any motor truck, passenger bus or truck tractor, or any motor vehicle towing a house trailer, upon any highway outside the corporate limits of municipalities at any time from a half hour after sunset to a half hour before sunrise unless there shall be carried in such vehicle the following equipment except as provided in subsection 2:

- a. At least three flares or three red electric lanterns or three portable red emergency reflectors, each of which shall be capable of being seen and distinguished at a distance of not less than six hundred feet under normal atmospheric conditions at nighttime. No flare, fusee, electric lantern or cloth warning flag shall be used for the purpose of compliance with the requirements of this section unless such equipment is of a type which has been submitted to the registrar and approved by him. No portable reflector unit shall be used for the purpose of compliance with the requirements of this section unless it is so designed and constructed as to include two reflecting elements one above the other, each of which shall be capable of reflecting red light clearly visible

from all distances within six hundred feet to one hundred feet under normal atmospheric conditions at night when directly in front of lawful upper beams of head lamps, and unless it is of a type which has been submitted to the registrar and approved by him.

- b. At least three red-burning fuses unless red electric lanterns or red portable emergency reflectors are carried.
- c. At least two red-cloth flags, not less than twelve inches square, with standards to support such flags.

2. No person shall operate at the time and under conditions stated in subsection 1 any motor vehicle used for the transportation of explosives, any cargo tank truck used for the transportation of flammable liquids or compressed gases, or any motor vehicle using compressed gas as a fuel unless there shall be carried in such vehicle three red electric lanterns or three portable red emergency reflectors meeting the requirements of subsection 1, and there shall not be carried in any said vehicle any flares, fuses or signal produced by flame.

39-21-43. Display of Warning Devices When Vehicle Disabled.) 1. Whenever any motor truck, passenger bus, truck tractor, trailer, semitrailer or pole trailer, or any motor vehicle towing a house trailer, is disabled upon the traveled portion of any highway or the shoulder thereof outside of any municipality at any time when lighted lamps are required on vehicles the driver of such vehicle shall display the following warning devices upon the highway during the time the vehicle is so disabled on the highway except as provided in subsection 2:

- a. A lighted fusee, a lighted red electric lantern or a portable red emergency reflector shall be immediately placed at the traffic side of the vehicle in the direction of the nearest approaching traffic.
- b. As soon thereafter as possible but in any event within the burning period of the fusee (fifteen minutes), the driver shall place three liquid-burning flares (pot torches), or three lighted red electric lanterns or three portable red emergency reflectors on the traveled portion of the highway in the following order:
 - (1) One, approximately one hundred feet from the disabled vehicle in the center of the lane occupied by such vehicle and toward traffic approaching in that lane;
 - (2) One, approximately one hundred feet in the opposite direction from the disabled vehicle and in the center of the traffic lane occupied by such vehicle;

- (3) One at the traffic side of the disabled vehicle not less than ten feet rearward or forward thereof in the direction of the nearest approaching traffic. If a lighted red electric lantern or a red portable emergency reflector has been placed at the traffic side of the vehicle in accordance with paragraph (1) of this subdivision it may be used for this purpose.

2. Whenever any vehicle referred to in this section is disabled within five hundred feet of a curve, hill crest or other obstruction to view, the warning signal in that direction shall be so placed as to afford ample warning to other users of the highway, but in no case less than one hundred feet nor more than five hundred feet from the disabled vehicle.

3. Whenever any vehicle of a type referred to in this section is disabled upon any roadway of a divided highway during the time that lights are required, the appropriate warning devices prescribed in subsections 1 and 5 of this section shall be placed as follows:

- a. One at a distance of approximately two hundred feet from the vehicle in the center of the lane occupied by the stopped vehicle and in the direction of traffic approaching in that lane;
- b. One at a distance of approximately one hundred feet from the vehicle, in the center of the lane occupied by the vehicle and in the direction of traffic approaching in that lane;
- c. One at the traffic side of the vehicle and approximately ten feet from the vehicle in the direction of the nearest approaching traffic.

4. Whenever any vehicle of a type referred to in this section is disabled upon the traveled portion of a highway or the shoulder thereof outside of any municipality at any time when the display of fusees, flares, red electric lanterns or portable red emergency reflectors is not required, the driver of the vehicle shall display two red flags upon the roadway in the lane of traffic occupied by the disabled vehicle, one at a distance of approximately one hundred feet in advance of the vehicle, and one at a distance of approximately one hundred feet to the rear of the vehicle.

5. Whenever any motor vehicle used in the transportation of explosives or any cargo tank truck used for the transportation of any flammable liquid or compressed flammable gas, or any motor vehicle using compressed gas as a fuel, is disabled upon a highway of this state at any time or place mentioned in subsection 1 of this section, the driver of such vehicle shall immediately display the following warning devices:

- a. One red electric lantern or portable red emergency reflector placed on the roadway at the traffic side of the vehicle; and
- b. Two red electric lanterns or portable red reflectors, one placed approximately one hundred feet to the front and one placed approximately one hundred feet to the rear of this disabled vehicle in the center of the traffic lane occupied by such vehicle.

Flares, fusees or signals produced by flame shall not be used as warning devices for disabled vehicles of the type mentioned in this subsection.

6. The flares, fusees, red electric lanterns, portable red emergency reflectors and flags to be displayed as required in this section shall conform with the requirements of section 39-21-44 applicable thereto.

39-21-44. Vehicles Transporting Explosives.) Any person operating any vehicle transporting any explosive as a cargo or part of a cargo upon a highway shall at all times comply with the provisions of this section.

1. Said vehicle shall be marked or placarded on each side and the rear with the word "Explosives" in letters not less than eight inches high, or there shall be displayed on the rear of such vehicle a red flag not less than twenty-four inches square marked with the word "Danger" in white letters six inches high.

2. Every said vehicle shall be equipped with not less than two fire extinguishers, filled and ready for immediate use, and placed at a convenient point on the vehicle so used.

3. The registrar shall promulgate such additional regulations governing the transportation of explosives and other dangerous articles by vehicles upon the highways as he shall deem advisable for the protection of the public.

39-21-44.1. Vehicle To Be Constructed to Prevent Sifting or Leaking Loads.) No vehicle shall be driven or moved on any highway unless it is so constructed or loaded as to prevent its contents from dropping, sifting, leaking, or otherwise escaping therefrom, except that sand may be dropped for the purpose of securing traction, or water or other substance may be sprinkled on a roadway in cleaning or maintaining the roadway. No person shall operate on any highway any vehicle with any load unless the load and any covering thereon is securely fastened so as to prevent said covering or load from becoming loose, detached or in any manner a hazard to other users of the highway.

39-21-44.2. Drawbar or Connections Between Vehicles — Regulations and Precautions Required.) The drawbar or other connection between any two vehicles, one of which is towing or drawing the other on a highway, shall not exceed fifteen feet in length from one vehicle to the other. Whenever such connection consists of a chain, rope, or cable, there shall be displayed thereon a red flag or other signal or cloth not less than twelve inches both in length and width.

39-21-45. Air-Conditioning Equipment.) 1. The term "air-conditioning equipment" as used or referred to in this section shall mean mechanical vapor compression refrigeration equipment which is used to cool the driver's or passenger compartment of any motor vehicle.

2. Such equipment shall be manufactured, installed and maintained with due regard for the safety of the occupants of the vehicle and the public and shall not contain any refrigerant which is toxic to persons or which is flammable.

3. The registrar may adopt and enforce safety requirements, regulations and specifications consistent with the requirements of this section applicable to such equipment which shall correlate with and, so far as possible, conform to the current recommended practice or standard applicable to such equipment approved by the Society of Automotive Engineers.

4. No person shall have for sale, offer for sale, sell or equip any motor vehicle with any such equipment unless it complies with the requirements of this section.

5. No person shall operate on any highway any motor vehicle equipped with any air-conditioning equipment unless said equipment complies with the requirements of this section.

39-21-46. Scope and Effect of Regulations—Penalty.) 1. It is a misdemeanor for any person to drive or move or for the owner to cause or knowingly permit to be driven or moved on any highway any vehicle or combination of vehicles which is in such unsafe condition as to endanger any person, or which does not contain those parts or is not at all times equipped with such lamps and other equipment in proper condition and adjustment as required in this chapter, or which is equipped in any manner in violation of this chapter, or for any person to do any act forbidden or fail to perform any act required under this chapter.

2. Nothing contained in this chapter shall be construed to prohibit the use of additional parts and accessories on any vehicle not inconsistent with the provisions of this chapter.

3. The provisions of this chapter with respect to equipment on vehicles shall not apply to implements of husbandry, road machinery, road rollers or farm tractors except as herein made applicable.

§ 20. **Repeal.** Chapter 39-11, section 39-10-10, subsection 1 of section 39-10-22, sections 39-10-66, and 39-12-10 of the North Dakota Century Code are hereby repealed.

Approved March 16, 1963.

CHAPTER 284

S. B. No. 130

(Robinson, Sinner, Mahoney, Kjos)

RURAL MAIL VEHICLE LIGHTING

AN ACT

To authorize the use of flashing amber lights upon rural mail delivery vehicles and to prescribe standards therefor.

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

§ 1. **Flashing Signals on Rural Mail Vehicles—Standards.** Notwithstanding any other provision of law, it shall be lawful for any vehicle regularly used as a rural mail delivery vehicle to display two simultaneously flashing amber lamps mounted on top of such vehicle while it is being used to deliver mail. Such light assembly shall consist of two lamps mounted on top of such vehicle with one lamp being as near as is practicable to each side of the vehicle, displaying an amber light not less than four inches in diameter and visible under normal atmospheric conditions for a distance of at least five hundred feet to the front and to the rear of such vehicle. The lamp assembly shall include a sign at least seven inches in height containing the words "U.S. MAIL" in black letters not less than four inches in height and of not less than three-quarters of an inch in width of stroke, upon a white background. Such sign shall be constructed so as to permit folding down out of the line of vision when not in use. The lamps shall be equipped with a device to cause them to flash on and off, and such lamps shall be so wired as to cause both lamps to flash simultaneously. The lights shall be electrically controlled so that the lights will only be actuated when the vehicle is brought to a stop for the purpose of discharging official duties, and shall not be in operation except during the actual performance of duty delivering mail.

Approved March 9, 1963.

CHAPTER 285

S. B. No. 131

(Meidinger, Kjos, Sanford, Kee)

MOTOR VEHICLE DEALER LICENSING

AN ACT

To repeal section 39-04-28, section 39-04-30, section 39-04-31, section 39-04-32, section 39-04-33, section 39-04-34 and section 39-04-35 and for an Act to create a new chapter of the North Dakota Century Code to be entitled Motor Vehicle Dealers relating to definition of dealer; motor vehicle dealer's licenses, fees, additional number plates; motorcycle dealers license and fee; grounds for denial, suspension, cancellation or revocation of dealers license; dealers bond required; location of used car lots; penalty for dealer permitting license to be used by another dealer; dealers to furnish information to registrar and requirements of dealers to file list of used cars with registrar, fees paid on used cars by dealer, delinquency and penalty; powers of the registrar of motor vehicles; examination of dealers books and records by registrar; officers to administer provisions of chapter; and penalty for violation of provisions of chapter.

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

§ 1. Dealer.) In this chapter, unless the context or subject matter otherwise requires:

1. "Dealer" shall have the same meaning as defined in section 39-04-01.

§ 2. Motor Vehicle Dealer's Licenses — Fees — Additional Number Plates.) It shall be unlawful for any person, partnership or corporation to engage in the business of buying, selling or exchanging of motor vehicles, or to advertise or hold himself out to the public as engaging in the buying, selling or exchanging of motor vehicles, or to engage in the buying of motor vehicles for resale, unless he possesses a current new motor vehicle dealer's license or used motor vehicle dealer's license for which he shall pay the license fee of twenty-five dollars per year, and with which shall be issued one set of dealer's plates. A second set of dealer's number plates shall be issued to the dealer upon payment of an additional fee of twenty-five dollars. Additional dealer's number plates shall be issued to the dealer upon payment of a fee of ten dollars per set. Such number plates may be used on any car owned by the dealer. In addition to the dealer's license plates, the registrar of motor vehicles may issue to any dealer holding a regular dealer's license plate, an in transit license plate for a fee of two dollars per plate. Such plates may be used on vehicles in lieu of dealer's plates while a motor vehicle is in transit from its

place of manufacture or any other place, to the dealer. Special utility plates may be issued by the registrar to any dealer, for a fee of two dollars, which special utility plate shall be used only on a vehicle while it is being used by the dealership to which the plate is issued within a radius of twenty-five miles of the licensee's place of business.

No application shall be granted nor a license issued to anyone until or unless the applicant shall furnish proof satisfactory to the registrar of the fact that the applicant has, does, and will continue to maintain, in the case of a used motor vehicle dealer's license, an established place of business, and has facilities and equipment for the maintenance, servicing and repair of motor vehicles. An established central place of business, when used in this sense, means a permanent or enclosed building or structure either owned in fee or leased with a stated periodic rental, at which a permanent business of bartering, trading and selling of motor vehicles, the repair, maintenance, and servicing of motor vehicles and the storage of parts and accessories therefor, will be carried on as such in good faith and not for the purpose of evading this section, and at which place of business shall be kept and maintained the books, records, and files, necessary to conduct the business at such place, and shall not mean a residence, tents, temporary stands or other temporary quarters, nor permanent quarters occupied pursuant to any temporary arrangement. Said central place of business may consist of several buildings, or structures, but no building or structure constituting a part of said central place of business shall be located at a distance greater than one thousand feet from any other buildings or structures of said central place of business. If the license is granted hereunder, the licensee shall be permitted to use unimproved lots and premises for sales, storage, or display of motor vehicles.

Every dealer must have repair and service facilities and he must maintain a service and repair shop with a minimum investment of at least one thousand dollars in tools and shop equipment, as appraised by a representative of the registrar of motor vehicles.

In the case of an application for a new motor vehicle dealer's license, the applicant shall furnish proof satisfactory to the registrar of the fact that the applicant has, does, and will continue to maintain all of the facilities described above applicable to a used motor vehicle dealer's license and in addition thereto, shall furnish proof satisfactory to the registrar of the fact that the applicant has a bona fide contract or franchise in effect with a manufacturer or distributor of the new motor vehicle or motor vehicles in which he proposes

to deal. A new motor vehicle dealer's license shall entitle the holder to deal in both new and used motor vehicles. A used motor vehicle dealer's license shall entitle the holder to deal in used motor vehicles only.

If the licensee desires to remove from the central established place of business occupied when the license is granted to a new location, he shall first secure from the registrar of motor vehicles permission to do so. He shall be required to furnish proof satisfactory to the registrar that the premises to which he proposes to remove conform with the requirements hereinbefore set forth.

§ 3. Motorcycle Dealer's Licenses — Fees.) A motorcycle dealer shall pay a license fee of five dollars for each set of motorcycle license plates issued to him. Application for such license, and renewal thereof, shall be made to the registrar of motor vehicles, shall be in writing and duly verified by oath. The applicant shall submit such information as said registrar may require, upon blanks provided by registrar for such purposes.

§ 4. Grounds for Denial, Suspension, Cancellation or Revocation of Dealer's License.) The registrar of motor vehicles may deny an application for a dealer's license or suspend, revoke or cancel such a license after it has been granted for the following reasons:

1. For any material misstatement by an applicant in the application for the license.
2. For any willful failure to comply with the provisions of this chapter or with any rule or regulation promulgated by the registrar of motor vehicles.
3. For knowingly permitting any salesman to sell or exchange, or offer or attempt to sell or exchange any motor vehicle except for the licensed motor vehicle dealer by whom he is employed, or to offer, transfer or assign any sale or exchange that he may have negotiated to any other dealer.
4. For having violated any law relating to the sale, distribution or financing of motor vehicles.
5. For having ceased to have an established place of business as herein defined.

Such cancellation and revocation shall be done in the manner and according to the procedure described in chapter 28-32.

§ 5. Bond Required.) Before the issuance of a motor vehicle dealer's license, as provided by law, the applicant for such a license shall furnish a surety bond executed by the applicant as principal and executed by a surety company,

licensed and qualified to do business within the state of North Dakota, which bond shall run to the state of North Dakota, be in the amount of ten thousand dollars and be conditioned upon the faithful compliance by said applicant as a dealer, if the license be issued to it or him, that such dealer will comply with all of the statutes of the state of North Dakota, including this chapter, regulating or being applicable to the business of said dealer as a dealer in motor vehicles, and indemnifying any person dealing or transacting business with said dealer in connection with any motor vehicle from any loss or damage occasioned by the failure of such dealer to comply with any of the provisions of title 39, including, but not limited to, the furnishing of a proper and valid certificate of title to the motor vehicle involved in any such transaction, and that such bond shall be filed with the registrar of motor vehicles prior to the issuance of license provided by law. The aggregate liability of the surety of all persons, however, shall in no event exceed the amount of said bond.

§ 6. Used Car Lots — Location.) A registered dealer as described in this chapter may establish open used car lots as may be necessary in the conduct of his business in an area not further removed than three miles from the city limits of the town in which he operates a licensed place of business.

§ 7. Dealer Permitting License To Be Used by Another Dealer—License Revoked—Penalty.) Any dealer who permits any other dealer to use his dealer's license, or permits the use of such license for the benefit of any other dealer, shall have his dealer's license revoked and shall be subject to a fine of not less than fifty dollars nor more than two hundred dollars.

§ 8. Dealers to Furnish Information to Registrar.) All dealers engaged in the sale of motor vehicles in this state shall furnish the registrar with such information as to models, specifications, selling prices, and such other data requested by the registrar as may be necessary in carrying out the provisions of this chapter.

§ 9. Dealer to File List of Used Motor Vehicles with Registrar — Fees Paid on Used Cars by Dealer — Delinquency — Penalty.)

1. On or before February fifth of each year, a licensed dealer shall file with the registrar a list and a description of all used motor vehicles on hand on February first of each year. Such used cars need not be licensed until July first unless they are sold before that date. Each used motor vehicle on hand must be licensed at the full annual fee before July second; if not licensed

before July second, such license fee shall become delinquent on July second and a penalty of ten cents a day shall be added to such license fee for each and every day not exceeding fifteen days that such license fee shall be delinquent and a penalty of two dollars shall be added for every additional thirty days or fraction thereof not exceeding one hundred fifty days that such license fee shall be delinquent.

2. Any used motor vehicle taken in by a dealer after February first of any year, which carries the current year's number plates of another state, if sold within the state, shall be required to pay a registration fee for the remainder of the calendar year prorated on a monthly basis with one-twelfth of the annual registration fee to be paid for each calendar month or fraction thereof of the remaining part of the year; penny adjustments shall be carried to the next quarter dollar.

§ 10. Powers of the Registrar of Motor Vehicles.) In addition to other powers provided by law, the registrar of motor vehicles shall have the following powers and duties which shall be exercised in conformity with this chapter:

1. To cancel, revoke or suspend a dealer's license as provided for in section 39-21-04.
2. To prescribe rules and regulations not inconsistent with this chapter governing the application for dealer's licenses and the cancellation or suspension or revocation of dealer's licenses.
3. To employ and pay such persons as he may deem necessary to inspect dealers in this state, investigate dealers for the information of the registrar of motor vehicles, to procure evidence in connection with any prosecution or other action to suspend, revoke or cancel a dealer's license in relation to any matter in which the registrar of motor vehicles has any duty to perform.

§ 11. The Examination of Books and Records.) The registrar of motor vehicles or his duly authorized representative may inspect the pertinent books, letters, records and contracts of any licensed motor vehicle dealer relating to any specific complaint made against such dealer and held to be in violation of any of the provisions of title 39.

§ 12. Officers to Administer the Provisions of Chapter.) The registrar of motor vehicles and his appointee shall be responsible for the administration of the provisions of this chapter.

§ 13. Penalty for Violation of Provisions of Chapter.) Any person violating any of the provisions of this chapter for which

another penalty is not specifically provided is guilty of a misdemeanor and for the first offense shall be punished by a fine of not more than one hundred dollars, or by imprisonment for not more than thirty days, or by both such fine and imprisonment. For a second and subsequent offense, such person shall be punished by a fine of not more than five hundred dollars or by imprisonment for not more than six months, or by both such fine and imprisonment.

§ 14. Repeal.) Sections 39-04-28, 39-04-30, 39-04-31, 39-04-32, 39-04-33, 39-04-34 and 39-04-35 of the North Dakota Century Code are hereby repealed.

Approved March 16, 1963.

MUNICIPAL GOVERNMENT

CHAPTER 286

H. B. No. 604

(Maragos, Wagner, Tweten, Stockman)

MUNICIPAL CONTROL OF NOXIOUS WEEDS

AN ACT

To create and enact subsection 71 of section 40-05-01 of the North Dakota Century Code, relating to the destruction of noxious weeds in municipalities, and to repeal sections 63-01-14 and 63-01-15 relating to the destruction of noxious weeds in municipalities.

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

§ 1.) Subsection 71 of section 40-05-01 of the North Dakota Century Code is hereby created and enacted to read as follows:

71. Noxious Weeds. To determine what shall be noxious or unhealthful vegetation within the city or village; to provide the manner in which they shall be cut or destroyed and to require the owner or owners of any property within the city or village after a minimum of five days written notice to cut or destroy noxious weeds from their premises and the one-half of any road, or street, lying next to the lands or boulevards abutting thereon, and to provide in the event the owner or owners of any of said premises neglect to destroy or remove noxious weeds therefrom for defraying the cost of destruction thereof by certifying the cost thereof to the county auditor who shall spread the same against the respective lots or parcels in the same manner as other special assessments are spread, and such assessment shall be collected at the same time and manner as special taxes are collected.

§ 2. **Repeal.**) Sections 63-01-14 and 63-01-15 of the North Dakota Century Code are hereby repealed.

Approved March 5, 1963.

CHAPTER 287

S. B. No. 349
(Hernett, Ringsak)

MUNICIPAL CONSTRUCTION OF TELEVISION TOWERS

AN ACT

To create and enact subsection 72 of section 40-05-01 of the North Dakota Century Code, to authorize the governing body of a municipality to construct relay or booster towers for improved television reception.

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

§ 1.) Subsection 72 of section 40-05-01 of the North Dakota Century Code is hereby created and enacted to read as follows:

72. **Television Towers.** To construct and maintain relay and booster towers for the improved reception of educational and entertainment television programs.

Approved March 15, 1963.

CHAPTER 288

S. B. No. 163
(Lips)

PARKING PRIVILEGES FOR HANDICAPPED

AN ACT

Granting motor vehicle parking privileges to handicapped persons, and declaring an emergency.

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

§ 1.) The governing body of a municipality may provide by ordinance that any person who has lost, or has lost the use of, one or both legs or is so severely disabled as to be unable to move without the aid of crutches, braces, canes, wheelchairs, or other mechanical devices, be allowed to park for unlimited periods in parking zones restricted as to length of time parking is permitted, but such privilege shall have no application to those zones in which the stopping, parking, or standing of all vehicles is prohibited at times or at all times or which are reserved for special types of vehicles or are reserved for special uses. As a condition of this privilege the

vehicle shall display a distinguishing notice which shall be issued for a vehicle registered to the disabled person without fees by the municipality.

§ 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 9, 1963.

CHAPTER 289

H. B. No. 881

(Loder, Gackle, Knudsen, Burvee)

MUNICIPAL LIQUOR EXCISE TAX

AN ACT

To provide that any city or village may levy an excise tax on the proceeds from gross sales of liquor by a nonprofit corporation if such nonprofit corporation is the only licensed liquor retailer in the city or village.

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

§ 1. **City or Village May Levy Excise Tax on Nonprofit Liquor Dealers by Ordinance.**) 1. Any city or village, through the enactment of an ordinance to such effect, may levy a local excise tax, not in excess of fifty percent, upon the proceeds from gross sales of liquor, as defined by subsection 2 of section 5-01-01, by any nonprofit corporation licensed by the city or village to sell such liquor; provided, however, that no city or village shall levy the tax herein provided for unless such nonprofit corporation is the only person, firm, association, or corporation within the corporate limits of such city or village licensed to sell such liquor.

2. The city or village in levying the excise tax provided for in subsection 1 shall provide within the levying enactment a method of computation, collection, and disposition of such tax revenue, and a procedure whereby any person aggrieved by such procedure may appeal to the governing body of the city or village. The right of appeal from a decision of the governing body of such city or village to the district court of the district wherein such city or village is located shall not be restricted.

Approved March 14, 1963.

CHAPTER 290

S. B. No. 295
(Baker, Lips)

FIRE DEPARTMENT SUB-STATION TAX LEVY

AN ACT

To provide for a tax levy for city fire department operation and maintenance when sub-station facilities are required.

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

§ 1. Tax Levy for Fire Department Sub-Stations.) Upon the approval of a majority of the electors voting thereon at any regular election or special election called for such purpose, the governing body of any city or village may levy taxes annually, not in excess of five mills on the net taxable assessed valuation, for the purpose of providing additional funds to meet the operational and maintenance costs of establishing a sub-station for fire protection services. Such levy shall be in addition to and not restricted by the levy limitations prescribed by law.

No levy shall be made under this section unless the National Board of Fire Underwriters shall have surveyed the city or village and certified in writing to the governing body thereof as to the need and requirement of a sub-station to maintain adequate fire protection standards for protection of life and property in said city or village.

Approved March 16, 1963.

CHAPTER 291

H. B. No. 598

(Anderson (McHenry), Bier, Knudsen)

DESTRUCTION OF MUNICIPAL RECORDS

AN ACT

To create and enact sections 40-07-11.1, 40-16-10, and 58-07-05 of the North Dakota Century Code, relating to the destruction of city, village, county, and township records.

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

§ 1.) Section 40-07-11.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

40-07-11.1. Destruction of Village Records.) After the same have first been offered to the state historical society, the village clerk shall destroy by burning any of the following records, forms, or blanks after the same have become ten years old:

1. Election poll books;
2. Election registration books;
3. Petitions of candidates;
4. All election forms, blanks, books, and records of any kind and description except abstracts of votes;
5. Assessment slips;
6. Claims vouchers which have been audited and paid;
7. Certificates of officials' bonds; and
8. Insurance policies which have become obsolete.

§ 2.) Section 40-16-10 of the North Dakota Century Code is hereby created and enacted to read as follows:

40-16-10. Destruction of City Records.) After the same have first been offered to the state historical society, the city auditor shall destroy by burning any of the following records, forms, or blanks after the same have become ten years old:

1. Election poll books;
2. Election registration books;
3. Petitions of candidates;
4. All election forms, blanks, books, and records of any kind and description except abstracts of votes;
5. Assessment slips;

6. Claims vouchers which have been audited and paid;
7. Certificates of officials' bonds; and
8. Insurance policies which have become obsolete.

§ 3.) Section 58-07-05 of the North Dakota Century Code is hereby created and enacted to read as follows:

58-07-05. Destruction of Township Records.) After the same have first been offered to the state historical society, the township clerk shall destroy by burning any of the following books, forms, or blanks after the same have become ten years old:

1. Election poll books;
2. Election registration books;
3. Petitions of candidates;
4. All election forms, blanks, books, and records of every kind and description except abstracts of votes;
5. Assessment slips;
6. Township board of equalization records;
7. Claims vouchers which have been audited and paid;
8. Certificates of officials' bonds; and
9. Insurance policies which have become obsolete.

§ 4.) Section 11-13-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-13-17. Destruction of County Records.) After the same have first been offered to the state historical society, the county auditor shall destroy by burning any of the following record books, forms or blanks after the same have become ten years old:

1. Election poll books;
2. Election registration books;
3. Petitions of candidates;
4. All election forms, blanks, books, and records of every kind and description except abstracts of votes;
5. Assessment slips;
6. Crop statistics books;
7. Hail insurance books;
8. Hail insurance applications and withdrawals;
9. Collection sheets for writing up tax collections;
10. Tax certificates which have been paid or redeemed;
11. Tax levy blanks of school districts, townships, villages, and cities;
12. Tax receipts;

13. Township and village board of review records and school district posting books;
 14. Claims vouchers which have been audited and paid;
 15. Certificates of officials' bonds;
 16. Insurance policies which have become obsolete;
 17. Applications for abatement of taxes, approved or rejected;
 18. Warrants and warrant-checks when a microfilm record thereof has been made;
- and the following, after the same have become 30 years old:
1. Assessment rolls;
 2. Warrants and warrant-checks.

Approved March 9, 1963.

CHAPTER 292

S. B. No. 304
(Longmire)

APPOINTMENT AND JURISDICTION OF POLICE MAGISTRATES

AN ACT

To amend and reenact sections 40-18-03, 40-18-01, and 40-18-11 of the North Dakota Century Code, relating to the appointment of alternate police magistrates and proceedings in police magistrate court.

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

§ 1. **Amendment.**) Section 40-18-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-18-03. Vacancy in Office of Police Magistrate—Temporary Absence of Police Magistrate.) If a vacancy exists in the office of police magistrate by death, resignation, or otherwise, it shall be filled by appointment by the executive officer, subject to confirmation by the governing body of the city. An appointee shall qualify, and he shall hold office until the next city election, and until his successor is elected and qualified. During the temporary absence, interest, disqualification, or disability of the police magistrate, any county justice designated by the executive officer shall act as police magistrate until the police magistrate is available in the trial of causes triable before the police magistrate. In any city within a county having a court of increased jurisdiction, the governing

body may appoint an alternate police magistrate to serve when the police magistrate is unable to serve due to temporary absence or disability or interest. Such alternate shall be compensated on a per diem basis at a rate set by the governing body, and shall possess, as nearly as is practicable, the qualifications of the regular police magistrate.

§ 2. **Amendment.)** Section 40-18-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-18-01. Jurisdiction of Police Magistrate.) The police magistrate within a city or village shall have exclusive jurisdiction of, and shall hear, try, and determine, all offenses against the ordinances of the city or village, as the case may be. The offices of county justice and police magistrate may not be held by the same person.

§ 3. **Amendment.)** Section 40-18-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-18-11. How Proceedings Not Provided for in This Chapter To Be Governed.) In all cases not specifically provided for in this chapter, the process and proceedings in the court of a police magistrate shall be governed by the provisions of the laws of this state regulating proceedings in justices' courts in either civil or criminal cases.

Approved March 21, 1963.

CHAPTER 293

S. B. No. 338
(Longmire)

SPECIAL ASSESSMENTS FOR STREET LIGHTING

AN ACT

To amend and reenact subsection 2 of section 40-22-01 of the North Dakota Century Code, relating to special assessments by a municipality in connection with the operation and maintenance of street lights.

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

§ 1. **Amendment.)** Subsection 2 of section 40-22-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. The improvement of the municipal street system and any part thereof, including any one or more of the

processes of acquisition, opening, widening, grading, graveling, paving, repaving, surfacing with tar, asphalt, bituminous or other appropriate material, resurfacing, resealing, and repairing of any street, highway, avenue, alley, or public place within the municipality, and the construction and reconstruction of storm sewers, curbs and gutters, sidewalks, and service connections for water and other utilities, and the installation, operation, and maintenance of street lights;

Approved March 5, 1963.

CHAPTER 294

S. B. No. 205

(Torgerson, Dahlund, Wartner, Sanford, Kjos)

CITY AGREEMENTS WITH HIGHWAY DEPARTMENT

AN ACT

To amend and reenact section 40-22-06 and to repeal sections 40-22-06.1 and 40-22-07 of the North Dakota Century Code, relating to agreements by municipalities with the highway department of the state or the board of county commissioners for the improvement of streets, sewers and water mains, the financing of cities' obligations under such agreements, and the assessment of a portion of the cost of such improvements upon benefited property, and declaring an emergency.

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

§ 1. **Amendment.**) Section 40-22-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-22-06. Municipality May Enter Into Agreement with Highway Department or County for Certain Improvements.) Any municipality in this state, through its governing body, may enter into an agreement with the highway department of the state of North Dakota, or with the board of county commissioners of the county in which such municipality is located, or both, for the improvement of streets, sewers, and water mains, or of any of such facilities, under the terms of which the contract for such work is to be let by the state highway department or by the board of county commissioners, or by both jointly, and for this purpose may create a special improvement district or districts. No such agreement shall be effective until and unless the governing body obtains authority in accordance with this section to issue improvement warrants

to finance the amount that the municipality will be obligated to pay thereunder, over and above the amount of any bonds which have been voted and any other funds which are on hand and properly available for such purpose. If any portion of the cost is to be paid by the levy of special assessments, the governing body shall by resolution declare the necessity of the improvement, setting forth its general nature, the approximate amount or fraction of the cost which the municipality will be obligated to pay under the agreement, and the fact that this amount, or such lesser amount as the governing body may specify, is proposed to be paid by the levy of special assessments upon property determined to be benefited by the improvement. Any portion of the cost for which the municipality is obligated and which is not assessed upon benefited property or paid from other funds may be agreed to be paid by general taxation of all the taxable property in the municipality, if approval for the incurring of such debt is obtained and provision for the payment thereof is made in accordance with section 40-24-10. The resolution of necessity shall be published once each week for two consecutive weeks in the official newspaper of the municipality and protests may be filed and their sufficiency to bar the improvement shall be determined in accordance with sections 40-22-16 to 40-22-18, inclusive; except that if under the terms of the resolution of necessity the portion of the cost of the project to be assessed upon benefited property does not exceed twenty-five percent of the total cost to be paid by the highway department or county and municipality, written protests by the owners of seventy-five percent of the property liable to be assessed for the improvement shall be required to bar further proceedings with reference thereto. In districts created under this section the governing body may dispense with all requirements, other than those herein stated, preliminary to the construction of an improvement by the special assessment method, including the preparation and approval of plans and specifications, advertisement for bids, and execution of contracts and bonds. At any time after the period for filing protests has expired and the protests filed, if any, have been heard and determined to be insufficient, the governing body may issue warrants on the fund of the improvement in the total amount for which the municipality is obligated under the agreement, and may cause to be certified to the special assessment commission that portion of the cost to be borne by the property owners within the district, and the assessment of such amount may be made and such warrants may be issued as in other cases provided for in chapters 40-23 and 40-24.

§ 2. **Repeal.)** Sections 40-22-06.1 and 40-22-07 of the North Dakota Century Code 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 18, 1963.

CHAPTER 295

H. B. No. 664

(Neukircher, Ganser, Reimers)

PROGRESS PAYMENTS TO MUNICIPAL CONTRACTORS

AN ACT

To amend and reenact section 40-22-37 and section 40-28-10 of the North Dakota Century Code, relating to progress payments to contractors by municipalities.

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

§ 1. **Amendment.)** Section 40-22-37 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-22-37. Contractor May Be Paid During Progress of Work.) If the contractor to whom a contract is let properly performs the work therein designated, the governing body, from time to time in its discretion as the work progresses, may pay to the contractor between ninety and ninety-five percent of the amount already earned as estimated by the engineer acting for the municipality. Such amounts shall be paid in warrants drawn on the fund from which payment for the improvement is to be made.

§ 2. **Amendment.)** Section 40-28-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-28-10. Contractor May Be Paid from Time to Time on Estimates.) If the contractor shall perform the work designated in the contract properly, the governing body, from time to time as the work progresses and in its discretion, may pay such contractor between ninety and ninety-five percent of the amount earned under the contract to the time of payment as determined by estimates made by the engineer acting for the municipality. Any payments made under this section shall be by warrants drawn on the sewer and water connections assessment fund.

Approved March 4, 1963.

CHAPTER 296

H. B. No. 869
(Wagner, Lowe)

REFUNDING MUNICIPAL BONDS

AN ACT

To amend and reenact section 40-27-13 of the North Dakota Century Code, relating to the refunding by municipalities of callable funding bonds or refunding improvement bonds or warrants, and declaring an emergency.

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

§ 1. **Amendment.)** Section 40-27-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-27-13. Refunding Callable Funding Bonds or Refunding Warrants — Terms and Conditions.) Any municipality may refund, according to the procedure set forth in this chapter, any funding bonds issued under the provisions of this chapter which are callable prior to maturity or which shall be surrendered voluntarily for refunding, by the issuance of bonds upon the same terms and conditions except as to interest, whenever by so doing a saving in interest can be effected. Any municipality having valid outstanding refunding special improvement warrants or bonds issued pursuant to the provisions of this chapter, which are past due or which are redeemable either at the option of the municipality or with the consent of the warrant or bond holders, may issue new refunding special improvement bonds to refund such outstanding warrants or bonds, if there is not sufficient money in the fund or funds against which such outstanding refunding warrants or bonds are drawn to pay the same. Such new bonds may be issued for the purpose of extending the maturities of the outstanding refunding warrants or bonds, or reducing the rate of interest thereon, or equalizing the general tax which the municipality may be, or may become, obligated to levy to discharge deficiencies in the fund or funds against which they are drawn. Such new bonds shall be issued according to the procedure set forth in this chapter for the issuance of the original refunding special improvement warrants or bonds. In any case where refunding improvement bonds are issued and sold six months or more before the earliest date on which all outstanding refunding improvement warrants or bonds of the issue to be refunded thereby mature or are prepayable in accordance with their terms, the proceeds

of the new bonds, including any premium and accrued interest, shall be deposited in escrow with a suitable bank or trust company, having its principal place of business within or without the state, and shall be invested in such amount and in securities maturing on such dates and bearing interest at such rates as shall be required to provide funds sufficient to pay when due the interest to accrue on each warrant or bond refunded to its maturity or, if it is prepayable, to the earliest prior date upon which it may be called for redemption, and to pay and redeem the principal amount of each such warrant or bond at maturity or, if prepayable, at its earliest redemption date, and any premium required for redemption on such date; and the governing body's resolution authorizing the new bonds shall irrevocably appropriate for these purposes the escrow fund and all investments thereof, which shall be held in safekeeping by the escrow agent, and all income therefrom, and shall provide for the call for redemption of all prepayable bonds in accordance with their terms. The securities to be purchased with the escrow fund shall be limited to general obligations of the United States, securities whose principal and interest payments are guaranteed by the United States, and securities issued by the following United States Government agencies: Banks for Cooperatives, Federal Home Loan Banks, Federal Intermediate Credit Banks, Federal Land Banks and the Federal National Mortgage Association. Such securities shall be purchased simultaneously with the delivery of the new bonds. Moneys on hand in the refunding improvement bond fund maintained for the payment of the outstanding bonds, and not immediately needed for the payment of interest or principal due, may likewise be deposited in the escrow fund and invested in the same manner as the proceeds of the new bonds, to the extent consistent with the provisions of resolutions authorizing the outstanding bonds.

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

Approved March 9, 1963.

CHAPTER 297

S. B. No. 61
(Baker)

CITY EMPLOYEES' PENSION PLANS

AN ACT

To amend and reenact sections 40-46-02, 40-46-04, 40-46-09, subsection 3 of section 40-46-13, and section 40-46-20 of the North Dakota Century Code, relating to employees' pension plan in cities.

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

§ 1. **Amendment.)** Section 40-46-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-46-02. Tax Levy for City Employees' Pension Fund and Federal Social Security Authorized—Limitations.) In addition to any other levies authorized by law for general purposes, any city having a population in excess of ten thousand inhabitants according to the last official federal census which has adopted a civil service system for city employees may levy an annual tax of not more than four mills for the purpose of creating and maintaining a city employees' pension fund and for the purpose of paying the city's share of federal social security payments to the United States for coverage of city employees under federal social security. Any pension system shall be based on actuarial tables and actuarial valuation shall be performed at intervals of not more than five years.

§ 2. **Amendment.)** Section 40-46-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-46-04. Membership Fees and Assessments.) Every full-time city employee shall, at the time of employment, state in writing whether or not he desires to become a member of the city employees' pension fund and if his statement is in the affirmative he shall pay to the treasurer of the pension fund a membership fee to be fixed by the board of trustees in an amount not exceeding five dollars. Each member shall be assessed and required to pay annually an amount not more than five percent, to be determined by the board of trustees, upon the amount of annual salary paid to him, and such assessment shall be deducted and retained out of such salary in equal monthly installments. No assessment shall be made after retirement.

§ 3. Amendment.) Section 40-46-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-46-09. Who May Be Retired on Pension—Amount Paid to Retiring Employee.) Any appointed full-time employee of a city having an employees' pension fund who shall have served two hundred forty months or more, whether or not consecutive, as an employee and shall have reached the age of sixty years, or who, while employed by such city, shall suffer permanent mental or physical disability so that he is unable to discharge his duties, shall be entitled to be retired. Upon retirement, he shall be paid out of the pension fund of such city a monthly pension of not to exceed sixty percent of one-twelfth of his highest five-year average annual earnings as provided for in the plan adopted by the governing body of the city. If any member shall have served two hundred forty months in such city employment but shall not have reached the age of sixty years, he shall be entitled to retirement, but no pension shall be paid while he lives until he reaches the age of sixty years.

§ 4. Amendment.) Subsection 3 of section 40-46-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. To the father or mother of each surviving child, if such parent survives, for the benefit of such surviving child, until he or she shall arrive at the age of eighteen years, a sum not to exceed twenty-five dollars per month, and in case no parent of any such surviving child survives, then to the guardian of each surviving child a sum not to exceed twenty-five dollars per month until he or she shall arrive at the age of eighteen years. The aggregate of all such payments shall not exceed the amount provided for in the plan and in no event more than sixty percent of the highest five-year average earnings of such employee during the most recent two hundred forty months of his employment, if he was employed that long, and if not, during the total period of his employment, or the maximum amount fixed by the governing body by ordinance.

§ 5. Amendment.) Section 40-46-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-46-20. Employee Entitled to Refund from Fund Upon Termination of Employment with City.) Any employee who shall have been in the service of the city for a period of two years and shall have contributed to the city employees'

pension fund, and who voluntarily and while in good standing as an employee of said city shall have left the employment of such city, shall be entitled, upon application at the time of such retirement to a refund of all contributions made by him without interest and exclusive of the membership fee, payable in a lump sum. If a participant dies and no dependent benefits are payable, his named beneficiary or estate shall receive his contributions without interest, less any benefit payments theretofore received.

Approved March 6, 1963.

CHAPTER 298

H. B. No. 723
(Paulsen, Leahy)

CITY AND VILLAGE ZONING

AN ACT

To amend and reenact section 40-47-01 of the North Dakota Century Code, relating to the zoning powers of cities and incorporated villages.

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

§ 1. **Amendment.)** Section 40-47-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-47-01. Cities or Incorporated Villages May Zone—Application of Regulations.) For the purpose of promoting health, safety, morals, or the general welfare of the community, the governing body of any city or incorporated village may regulate and restrict the height, number of stories, and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts, and other open spaces, the density of population, and the location and use of buildings, structures, and land for trade, industry, residence, or other purposes. Such regulations may provide that a board of adjustment may determine and vary the application of the regulations in harmony with their general purpose and intent and in accordance with general or specific rules therein contained. Wherever in this chapter the word "city" appears, it shall be taken and construed to include incorporated villages.

Approved March 9, 1963.

CHAPTER 299

H. B. No. 673
(Goebel, Schaffer)

TOWNSITE PLATS AND MAPS

AN ACT

Amending and reenacting section 40-50-04 of the North Dakota Century Code, relating to certifying and recording of a plat or map in municipalities.

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

§ 1. **Amendment.**) Section 40-50-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-50-04. Certifying and Recording of Plat or Map.) After the plat or map has been completed, it shall be certified by the surveyor and the officers, if it is correct. No plat shall be recorded until it is approved by the engineer of the municipality affected by the plat, or if there is no such municipal engineer, by the governing body of such municipality. Every person whose duty it is to comply with the provisions of this chapter, before the plat or map is offered for record, shall acknowledge the same before a person authorized to take acknowledgments. A certificate of the acknowledgment shall be endorsed on the plat or map by the officer taking the same, and such certificate or survey and acknowledgment shall be recorded and shall form a part of the record.

Approved March 4, 1963.

CHAPTER 300

H. B. No. 771

(Fitch, Baldwin, Aamoth, Leahy, Stockman, Bergman)

URBAN RENEWAL TAX LEVY

AN ACT

To authorize cities having undertaken an urban renewal project or projects to levy taxes not exceeding one and one-half mills for ten successive years for such cities' participating shares in additional projects in new urban renewal areas, and not subject to other tax levy limitations, and declaring an emergency.

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

§ 1. City Tax Levy for Additional Urban Renewal Project.)

The governing body of any city which has undertaken an urban renewal project or projects and has approved an additional urban renewal plan for a new urban renewal area as authorized in section 40-58-06 of the North Dakota Century Code, or any other law amendatory thereof or supplemental thereto, may levy taxes annually, not in excess of one and one-half mills in each year for a period not to exceed ten successive years, for the city's participating share in the urban renewal project for such new area. No city having a population less than 40,000 shall make such levy unless the governing body of the city shall have submitted to the voters of the city, according to the procedure set forth in sections 57-15-45 and 57-15-46, the question of levying a tax for the purposes authorized by this section, not to exceed two mills on the dollars in any one year upon the assessed valuation of all property in the city. If the majority of the electors voting on the question approve such levy, there shall be levied, spread and collected such tax as other taxes are collected in and for such city. This levy may be made in addition to but not simultaneously with any levy made as authorized in section 57-15-44 of the North Dakota Century Code, and shall not be subject to the tax levy limitations contained in section 57-15-08 of such Code or in any other law.

§ 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 9, 1963.

OCCUPATIONS AND PROFESSIONS

CHAPTER 301

S. B. No. 98

(Lips)

ACCOUNTANTS' EXAMINATION AND QUALIFICATION

AN ACT

To amend and reenact sections 43-02-04, 43-02-07, 43-02-10, 43-02-11, and 43-02-14 of the North Dakota Century Code, relating to accountants.

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

§ 1. **Amendment.)** Section 43-02-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-02-04. Travel Expense Allowed to Board Members.) A member of the board shall receive twenty-five dollars for each day or portion thereof spent in the discharge of his duties, such mileage as is provided by section 54-06-09, and shall be reimbursed for his actual and necessary expenses incurred in the discharge of his official duties.

§ 2. **Amendment.)** Section 43-02-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-02-07. Funds of Board Held by Treasurer — How Disbursed.) Moneys collected for the board under the provisions of this chapter shall be kept by the treasurer and disbursed by him in the manner prescribed by the state board of accountancy. At the end of his term, the treasurer shall account to his successor for any moneys remaining in his hands.

§ 3. **Amendment.)** Section 43-02-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-02-10. Qualifications for Certificate to Practice as Certified Public Accountant.) The board shall issue a certificate to practice as a certified public accountant to any person who:

1. Is, or in good faith has declared his intention to become, a citizen of the United States;
2. Has been a resident of North Dakota since one year prior to his application for examination;
3. Is twenty-one years of age or over;
4. Is of good moral character;

5. Has had at least four years of public accounting experience on his own account or in the office of a certified public accountant in active practice, or is a graduate of a college or university of recognized standing; and
6. Has passed a satisfactory examination.

§ 4. **Amendment.**) Section 43-02-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-02-11. Examination—When Not Necessary.) The board, upon application in writing, may waive the examination and issue a certificate to practice as a certified public accountant to a person who is not a resident of this state, if he:

1. Has the other qualifications required by section 43-02-10;
2. Holds a certificate to practice as a certified public accountant in another state where the standards, in the opinion of the board, are equivalent to the standards maintained in this state, provided, however, that the other state extends reciprocity to the certificate holders of this state; and
3. Has remitted his fee of forty dollars.

The applicant for a certificate without examination shall submit to the board such evidence as to qualifications as it may require.

§ 5. **Amendment.**) Section 43-02-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-02-14. Fee for Examination — Failure to Pass Examination — Re-Examination.) At the time of filing his application, each applicant for examination for a certificate to practice as a certified public accountant shall pay to the board a fee not to exceed fifty dollars. In case the applicant is not approved for examination due to the failure of the applicant to qualify under one or more of subsections 1, 2, 3, 4, or 5 of section 43-02-10, twenty dollars of such fee shall be returned to the applicant. If the the applicant passes accounting practice or any other two subjects covered by the examination, but shall fail to pass the examination as a whole, he shall be entitled to re-examination on the subjects in which he has failed. Such re-examination may be taken only at the next five examinations held and each applicant shall pay to the board a fee of twenty dollars for each re-examination in accounting practice and a fee of ten dollars for each re-examination in any other subject.

Approved March 18, 1963.

CHAPTER 302

H. B. No. 647

(Brown, Maragos, Johnston, Wagner)

CHIROPODISTS, DEFINITIONS

AN ACT

To amend and reenact section 43-05-01 of the North Dakota Century Code, relating to "chiropractors" or those engaged in practicing chiropody.

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

§ 1. **Amendment.)** Section 43-05-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-05-01. Definitions.) In this chapter, unless the context or subject matter otherwise requires:

1. A "chiropractor" may be referred to as a "podiatrist" and shall mean one who examines, diagnoses, and treats abnormal nail conditions, excrescences occurring on the feet, including corns, warts, callosities, bunions, and arch disorders or who treats the human foot medically, mechanically, or by physiotherapy in a chiropodic manner; a "doctor of surgical chiropody" is a chiropodist who has a degree from an accredited college of chiropody. A doctor of surgical chiropody in addition to the aforementioned privileges of practice is hereby permitted to practice minor foot surgery and to administer local anesthetics. Minor foot surgery shall consist only of any surgical procedure of the foot, except amputation of the foot, that can be done under a local anesthetic.
2. "Board" shall mean the board of registry in chiropody. The board of registry in chiropody may be referred to as "the board of registry in podiatry".
3. For all purposes of this Act the words chiropody and chiropodist shall be synonymous with the words podiatry and podiatrist and the degree of doctor of surgical chiropody synonymous with any degree given by the accredited colleges of podiatry.

Approved March 5, 1963.

CHAPTER 303

H. B. No. 868

(Lowe, Johnston, Maragos, Baldwin)

CHIROPODY LICENSE FEE

AN ACT

To amend and reenact section 43-05-15 of the North Dakota Century Code, authorizing the board of registry in chiropody to establish the annual license fee for the practice of chiropody.

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

§ 1. **Amendment.**) Section 43-05-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-05-15. Renewal of License—Fee—Established by Board—Failure to Pay—Reinstatement.) Each licensed and practicing chiropodist in this state shall pay an annual renewal uniform license fee to be established by the board, but not to exceed one hundred dollars on or before the first day of June of each year and shall be entitled to an annual certificate or license upon payment of said fee. If the renewal fee is not paid within three months after June first of each year, the license of the delinquent licensee shall be revoked and shall not be reissued except upon a new application and the payment of a sum equal to such fee as established by the board plus twenty dollars.

Approved March 13, 1963.

CHAPTER 304

S. B. No. 37

(Holand, Baeverstad, Luick, Becker, Reichert)
(From LRC Study)

LICENSING AND BONDING OF CONTRACTORS

AN ACT

To create and enact section 43-07-19 and to amend and reenact sections 43-07-01, 43-07-02, 43-07-04, 43-07-05, 43-07-08, 43-07-09, 43-07-10, 43-07-11, 43-07-14, 43-07-15, 43-07-17, 43-07-18, subsection 1 of section 57-40-05, and subsections 1 and 2 of section 57-40-06 of the North Dakota Century Code, relating to the licensing and bonding of contractors and the collection of taxes therefrom, and to repeal section 43-07-16 of the North Dakota Century Code, relating to appeals from the cancellation of a license.

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

§ 1. **Amendment.)** Section 43-07-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-07-01. Definitions.) In this chapter, unless the context or subject matter otherwise requires:

1. The word "registrar" as used herein is the secretary of state of the state of North Dakota;
2. The word "person" includes any individual, firm, co-partnership, association, corporation, or other group or combination thereof acting as a unit, and the plural as well as the singular number, unless the intent to give a more limited meaning is disclosed clearly by the context thereof;
3. A "contractor" is any person, as hereinbefore defined, engaged in the business of construction, repair, alteration, dismantling, or demolition of bridges, highways, roads, streets, buildings, airports, dams, drainage or irrigation ditches, sewers, water or gas mains, water filters, tanks, towers, oil, gas, or water pipelines, and every other type of structure, project, development or improvement coming within the definition of real or personal property, including the construction, alteration, or repair of property to be held either for sale or rental, and shall include subcontractor, public contractor, and nonresident contractor;
4. A "public contract" is a contract with the state of North Dakota or any board, commission, or department thereof, or with any board of county commissioners, or with any

city council or board of city commissioners, board of village trustees, board of township supervisors, school board, or with any state or municipal agency, or with any other public board, body, commission, or agency authorized to let or award contracts for the construction or reconstruction of public work when the contract cost, value, or price exceeds the sum of five hundred dollars and includes subcontracts undertaken to perform work covered by the original contract or any part thereof when the contract cost, value, or price of the work included in such subcontract exceeds the sum of five hundred dollars; and

5. The term "nonresident contractor" denotes and applies to any contractor who has not an established and maintained place of business within this state, or who has not made reports to the North Dakota workmen's compensation bureau within the previous year of employees within this state, and who has not made contribution to the North Dakota workmen's compensation fund accordingly, or who, during a like period has not made an income tax return in this state.

§ 2. **Amendment.)** Section 43-07-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-07-02. License Required.) No person shall engage in the business nor act in the capacity of a contractor within this state when the original contract or subcontract cost, value or price exceeds the sum of five hundred dollars without first having a license as provided in this chapter.

§ 3. **Amendment.)** Section 43-07-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-07-04. License — How Obtained.) To obtain a license under this chapter, an applicant shall submit, on such forms as the registrar shall prescribe, an application under oath containing a statement of the applicant's experience and qualifications as a contractor, and the value and character of the contract work completed by him during the one year preceding the date of such application, and the names of the persons for whom such work was done. The applicant shall obtain a use tax account number from the office of the state tax commissioner and report such number on the application. A bond, as hereinafter prescribed, shall be filed with the application along with such other information as may be required by the registrar to assist him in determining the applicant's fitness to act in the capacity of a contractor. The

application shall contain a statement that the applicant desires the issuance of a license under the terms of this chapter, and shall specify the class of license sought. Any person refused a license by the registrar shall have a right of appeal from such refusal to the district court of Burleigh County, North Dakota if a nonresident, or to the district court of the county of his residence, if a resident of North Dakota.

§ 4. Amendment.) Section 43-07-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-07-05. Classes of Licenses.) Four classes of licenses shall be issued under the provisions of this chapter, which shall be designated as class A, B, C, and D licenses. The holders of such licenses shall be entitled to engage in the contracting business within this state subject to the following limitations:

1. The holder of a class A license shall be subject to no limitation as to the value of any single contract project;
2. The holder of a class B license shall not be entitled to engage in the construction of any single contract project of a value in excess of one hundred twenty-five thousand dollars;
3. The holder of a class C license shall not be entitled to engage in the construction of any single contract project of a value in excess of sixty thousand dollars; and
4. The holder of a class D license shall not be entitled to engage in the construction of any single contract project of a value in excess of twenty-five thousand dollars.

§ 5. Amendment.) Section 43-07-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-07-08. Exceptions.) This chapter shall not apply to:

1. Any authorized representative or representatives of the United States Government, the state of North Dakota, or any county, municipality, irrigation district, reclamation district or other political corporation; or
2. Any person who furnishes any fabricated or finished product, material or article of merchandise which is not incorporated into or attached to real property by such person so as to become affixed thereto.
3. Any person who contracts to furnish labor only and for an amount not in excess of \$5,000.00.

§ 6. Amendment.) Section 43-07-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-07-09. Duty of Registrar—Expiration of License.) The registrar shall investigate and determine each applicant's fitness to act in the capacity of contractor as defined in this chapter, and no license shall be issued to such applicant until the expiration of ten days from and after the filing of the application. The license issued on an original application shall entitle the licensee to act as a contractor within this state, subject to the limitations of such license, until the expiration of the then current calendar year.

§ 7. Amendment.) Section 43-07-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-07-10. Renewal of License.) Any license issued under the provisions of this chapter may be renewed for each successive calendar year by obtaining from the registrar a certificate of renewal thereof. For the purpose of obtaining such certificate of renewal, the license shall file with the registrar an application therefor, which application shall be accompanied by a list in duplicate showing each contract or subcontract obtained by the licensee during the preceding calendar year in North Dakota for which a license was required under this chapter, the nature of the work contracted or subcontracted, and, if a performance bond was required by the contract, the name and address of the corporation or other person who issued the bond. The registrar shall within a reasonable time forward one copy of such list to the state tax commissioner and shall also indicate whether or not the license of the applicant was renewed by him. The application for such certificate of renewal must be made to the registrar on or before the first day of April of each successive calendar year. Such renewal certificate shall be good for the then current calendar year. At the time of filing the application for a certificate of renewal, the applicant shall pay to the registrar a license fee equal to ten percent of the license fee for the original license. If any applicant for a certificate of renewal shall apply for a renewal under a class different from the license theretofore issued to him, such new license shall be issued only upon the showing and under the terms and conditions and upon the payment of the same fee required for the issuance of an original license of the class applied for. All certificates of renewal wherein the applicant does not apply for a change in the class of license shall be issued by the registrar to the applicant when the application is properly filed and the license renewal fee is paid.

§ 8. Amendment.) Section 43-07-11 of the North Dakota Century Code Supplement is hereby amended and reenacted to read as follows:

43-07-11. Contractor's Bond — Requirements.) Every contractor as hereinbefore defined shall be required to execute and file with the application for license required by this chapter a good and valid bond issued by a surety company authorized to do business in this state or, in the case of class D contractors only, a personal bond with two sureties who are acceptable to the registrar and who are residents of the state of North Dakota. Every such bond for a class A contractor shall be written in the amount of two thousand dollars; bonds for class B, C, and D contractors shall be in the amount of one thousand dollars, each running to the state of North Dakota and conditioned upon the payment of all taxes, including the premiums under the workmen's compensation law and contributions due under the unemployment compensation law of the state of North Dakota, all use taxes required to be paid by the contractor to the state of North Dakota and all income taxes withheld or required to be withheld from employees pursuant to chapter 57-38, which may accrue to the state of North Dakota or the political subdivisions thereof on account of the execution and performance of the construction contract or subcontract; provided that any bond required by this section shall be in addition to any bond required by the provisions of section 48-01-05 and shall also be in addition to the obligation imposed by the provisions of section 57-40-17 upon a surety company to the state of North Dakota.

§ 9. Amendment.) Section 43-07-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-07-14. Complaint for License Cancellation.) Any person may file a duly verified complaint with the registrar charging that the licensee is guilty of one or more of the following acts or omissions:

1. Abandonment of any contract without legal excuse;
2. Diversion of funds or property received under express agreement for the prosecution or completion of a specific contract under this chapter, or for a specified purpose in the prosecution or completion of any contract, and their application or use for any other contract obligation or purpose to defraud or deceive creditors or the owner;
3. The doing of any willful fraudulent act by the licensee as a contractor in consequence of which another is injured substantially;
4. The making of any false statement in any application for a license or renewal thereof.

§ 10. Amendment.) Section 43-07-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-07-15. Cancellation of License — Appeal — Procedure.)

Upon the filing of such complaint, the registrar shall follow the procedures prescribed by chapter 28-32. If the registrar determines that the licensee has been guilty of any of the acts or omissions charged, he shall cancel or suspend the contractor's license. A contractor aggrieved by a decision of the registrar in suspending or canceling his license may appeal such decision to the district court of his county of residence or Burleigh County. The provisions of chapter 28-32 shall govern such appeal and proceedings thereunder.

§ 11. **Amendment.)** Section 43-07-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-07-17. Cancellation of License—Relicensing.) A licensee whose license has been canceled shall not be relicensed during the current calendar year in which he has committed the offense for which such cancellation was ordered, unless the registrar has ordered suspension of the license for a specific period of time.

§ 12. **Amendment.)** Section 43-07-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-07-18. Penalty.) Any person acting in the capacity of a contractor within the meaning of this chapter without a license as herein provided is guilty of a misdemeanor and, if a person, shall be punished by a fine of not more than five hundred dollars, or by imprisonment in the county jail for not more than six months or by both such fine and imprisonment. The same penalties shall apply to any member of a copartnership or to any construction, managing, or directing officer of any corporation or other organization consenting to, participating in, or aiding or abetting, any such violation of this chapter.

§ 13.) Section 43-07-19 of the North Dakota Century Code is hereby created and enacted to read as follows:

43-07-19. Nonresident Contractors — Agent for Service of Process.) Every applicant for a contractor's license who is not a resident of the state of North Dakota shall furnish to the secretary of state of the state of North Dakota a written appointment by which such applicant appoints the secretary of state of the state of North Dakota as his true and lawful agent upon whom may be served all lawful process in any action or proceeding against such nonresident contractor. Such appointment in writing shall be evidence of said contractor's consent that any such process against him which is so served upon the secretary of state shall be of the same legal force and

effect as if served upon him personally within this state. Within ten days after service of the summons upon the secretary of state, notice of such service together with the summons and complaint in the action shall be sent to the defendant contractor at his last known address by registered or certified mail with return receipt requested and proof of such mailing shall be attached to the summons. The secretary of state shall keep a record of all process served upon him under the provisions of this section. Such record shall show the day and hour of service. Whenever service of process shall have been made as provided in this section, the court, before entering a default judgment, or at any stage of the proceeding, may order such continuance as may be necessary to afford the defendant contractor reasonable opportunity to defend any action pending against him.

§ 14. Amendment.) Subsection 1 of section 57-40-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. The tax upon tangible personal property which is sold by a retailer maintaining a place of business in this state, or by such other retailer as the tax commissioner shall authorize pursuant to subsection 2 of section 57-40-06, shall be collected by the retailer and remitted to the commissioner as provided by section 57-40-06, provided, that any such retailer shall not collect the tax on any purchases made by a contractor who furnishes to the retailer a certificate which includes the contractor's license number assigned to him under the provisions of chapter 43-07 and the use tax account number assigned to him by the tax commissioner pursuant to section 43-07-04; such certificate shall be in the form prescribed by the tax commissioner and shall be furnished by the contractor to the retailer each calendar year prior to the making of any purchases during such calendar year from the retailer without liability for paying the tax to the retailer;

§ 15. Amendment.) Subsections 1* and 2 of section 57-40-06 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

1. Every retailer maintaining a place of business in this state and making sales of tangible personal property for use in this state, not exempted under the provisions of section 57-40-03, before making any sales shall obtain a permit from the commissioner to collect the tax

***Note:** Subsection 1 of section 57-40-06 was amended also by section 6, chapter 400, 1963 S.L. The wording, however, is identical in both amendments.

imposed by this chapter, which permit shall be subject to all of the requirements, conditions and fees for its issuance that apply with respect to a retail sales tax permit, and at the time of making such sales, whether within or without the state, shall, except as otherwise provided in subsection 1 of section 57-40-05, collect the tax imposed by this chapter from the purchaser, and give to the purchaser a receipt therefor in the manner and form prescribed by the tax commissioner, if the commissioner, by regulation, shall require such receipt. Each such retailer shall list with the tax commissioner the name and address of all his agents operating in this state, and the location of each of his distribution or sales houses or offices or other places of business in this state;

2. The tax commissioner, upon application, may authorize the collection of the tax imposed by section 57-40-02 by any retailer not maintaining a place of business within the state, who, to the satisfaction of the commissioner, furnishes adequate security to insure collections and payment of the tax. To such retailer shall be issued a permit to collect the tax in such manner and subject to such regulations and agreements as the commissioner shall prescribe. When so authorized, such retailer shall, except as otherwise provided in subsection 1 of section 57-40-05, collect the tax upon all tangible property sold to his knowledge for use within this state, as a retailer maintaining a place of business within this state collects such tax. Such authority and permit may be canceled at any time, if the commissioner considers the security inadequate, or believes that such tax can be collected more effectively from the person using such property in this state;

§ 16. Repeal.) Section 43-07-16 of the North Dakota Century Code is hereby repealed.

Approved March 21, 1963.

CHAPTER 305

H. B. No. 574
(Fitch)

LICENSING FUNERAL ESTABLISHMENTS

AN ACT

Providing for the licensing and regulation of funeral establishments, and providing a penalty.

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

§ 1. **Definition.)** As used in this Act, the term "funeral establishment" shall mean a place of business situated at a specific street address or location, and used in the care and preparation for burial, transportation, or other disposition of dead human bodies, or used for the purpose of conducting funeral services, but shall not include a branch establishment used only for layouts or funerals.

§ 2. **Licensure of Funeral Establishments.)** After January 1, 1964, no person shall operate or manage, for himself or others, a funeral establishment without a funeral establishment license issued by the state board of embalmers for each such place of business. No funeral establishment shall be located on tax-exempt property. Any person desiring to operate a funeral establishment shall submit an application for an annual license for each funeral establishment to the secretary of the state board of embalmers accompanied by a license fee of twenty-five dollars. Thereafter each person operating or managing a funeral establishment shall annually, on or before January first, submit an application for renewal of such license together with a renewal fee of ten dollars. Such licenses shall be valid until the following January first, unless sooner revoked as hereinafter provided. All applications must show that the funeral establishment sought to be licensed has complied with all rules and regulations promulgated by the board in regard to safety and sanitation and will be under the supervision of a North Dakota licensed embalmer. Any applicant who has met these standards shall be issued a license. In case of the death of an owner of a funeral establishment who leaves an established business as part or all of his estate, the said board may issue a special renewable temporary license to the legal representative of such deceased person for the duration of the administration of the estate, but which shall in no instance exceed two years. The fee for such temporary license shall be the same as required for regular licenses. Any person operating a funeral establishment as defined in section

1, who is engaged in business at a fixed location in North Dakota on the date of approval of this Act may apply for and be entitled to a funeral establishment license on the same basis as would a currently licensed embalmer.

§ 3. Inspections—Hearings—Revocations—Appeal.) The funeral establishment or that part thereof in which is conducted or intended to be conducted any funeral service business, shall be open at all times for inspection by the board or the state department of health. The board or agents employed by it and the state department of health shall have the power to make such inspections as are necessary of facilities and equipment of funeral establishments to insure compliance with safety and sanitary regulations promulgated by the board of embalmers whenever either deems the same advisable. If, upon inspection, it is found that such regulations are not complied with, the board shall give notice to the holder of the funeral establishment license and hold hearings in the manner provided in sections 43-10-17, 43-10-18, and 43-10-19. The board may subpoena witnesses, administer oaths and take testimony. All proceedings hereunder shall be conducted in accordance with the provisions of chapter 28-32. The board may, after such hearing, revoke, suspend, or refuse to issue or renew any such license upon good cause. Any person aggrieved by the action of said board may appeal to the district court of the county in which he resides or the district court of Burleigh County in accordance with the provisions of chapter 28-32.

§ 4. Penalty.) Any person violating any of the provisions of this Act shall be guilty of a misdemeanor and punished by a fine of not more than one hundred dollars.

Approved March 5, 1963.

CHAPTER 306

H. B. No. 812

(Powers, Fitch, Stallman, Lindberg, Lowe, Haugland)

LICENSING OF HAIRDRESSERS AND COSMETOLOGISTS

AN ACT

To amend and reenact sections 43-11-02 and 43-11-16, subsection 3 of section 43-11-19, subsection 4 of section 43-11-21, and subdivision (c) of subsection 1 of section 43-11-27 of the North Dakota Century Code, relating to the requirements and qualifications of state licensed schools for hairdressers and cosmetologists and the educational requirements of students of such schools.

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

§ 1. **Amendment.**) Section 43-11-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-11-02. Exemptions from Provisions of Chapter.) The provisions of this chapter shall not apply to services:

1. In case of emergency;
2. In case of domestic administration without compensation;
3. By persons authorized under the laws of this state to practice medicine, surgery, dentistry, chiropody, osteopathy, or chiropractic;
4. By barbers, nurses, undertakers, and morticians lawfully engaged in the performance of the usual and ordinary duties of their vocation;
5. This section shall not be construed as applying to the educational activities conducted in connection with any regularly scheduled meeting or any educational activities of any bona fide association of licensed cosmetologists, from which the general public is excluded. For purposes of this section a "bona fide association of cosmetologists" shall mean any organization whose constitution, bylaws, or membership rules establish within said organization a class of membership consisting of licensed cosmetologists.

§ 2. **Amendment.**) Section 43-11-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-11-16. Registered Schools — Qualifications for Registration.) A certificate of registration shall be granted to a school

for hairdressers and cosmetologists upon an application to the board and the payment of the annual registration fee, if the school:

1. Is operated and maintained in premises entirely distinct and permanently separated from any hairdressing, beauty, or cosmetologist shop;
2. No school of cosmetology shall be granted a certificate of registration unless it shall require one thousand five hundred hours of training and instruction in cosmetology, and unless it shall attach to its staff as a lecturer and consultant a person licensed by this state to practice an unlimited or limited branch of medicine and employ at least two full-time licensed instructors for the first twenty-five students enrolled and one additional instructor for each additional twenty-five students enrolled or fraction thereof after such school's enrollment has reached fifty students; shall possess apparatus and equipment sufficient for the proper and full teaching of all subjects of its curriculum; shall keep a daily record of the attendance of each student which shall not be in excess of eight hours per day; maintain regular class and instruction hours to include practical demonstrations and theoretical studies supplemented by audio-visual aids, and studies in sanitation, sterilization and other safety measures and the use of antiseptics, cosmetics, and electrical appliances consistent with the practical and theoretical requirements as applicable to cosmetology or any practice thereof as provided in this chapter. No school may conduct a clinical department for fees after registration by the board, until such school has been operating for a period of at least twenty percent of the total hours of instruction required by this chapter. No student shall be permitted to practice on any person not an instructor or registered student of such school until such student has completed at least twenty percent of the total hours of instruction required by this chapter. No school shall compensate any of its basic students in any way, nor shall they make appointments for clinical services or advertise the fees charged for clinical service. Each school, at the time of application for its license and upon the renewal of such license, shall furnish to the board, and maintain in force at all times the license is in effect, a bond in the penal sum of ten thousand dollars. Such bond shall run in favor of the board, as agent of the state and shall be furnished by a surety company authorized to do business in this state. It shall be conditioned upon such bonded school's providing its registered students with

the full course of instruction required under the provisions of this chapter and shall provide for a refund of a proportionate amount of such student's tuition fee upon default. Any such school that shall enroll student instructors shall set up an adequate course of training as such, with the approval of the board and shall not have at any one time more than one such student instructor for each licensed instructor actively engaged in such school.

§ 3. Amendment.) Subsection 3 of section 43-11-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. Have educational qualifications equivalent to completion of two years of high school;

§ 4. Amendment.) Subsection 4 of section 43-11-21 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. Satisfactory proof that the applicant has the required training in a registered school which shall not be less than one thousand five hundred hours for hairdressers and cosmetologists.

§ 5. Amendment.) Subdivision (c) of subsection 1 of section 43-11-27 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- (c) Shall possess a current North Dakota license as a cosmetologist and shall have been actively engaged in the practice of cosmetology in this state for at least five years immediately prior to such person's application for an instructor's license. No instructor or student instructor shall be permitted to practice cosmetology on a patron other than that part of practical work which shall pertain directly to the teaching of practical operations to students.

Approved March 7, 1963.

CHAPTER 307

H. B. No. 551

(Brown, Baldwin, Mueller, Maragos, Wagner, Knudsen)
(Haugland, Johnson)

PROFESSIONAL NURSES' LICENSING

AN ACT

To amend and reenact sections 43-12-01, 43-12-02, 43-12-03, 43-12-04, 43-12-05, 43-12-06, 43-12-07, 43-12-08, 43-12-09, 43-12-12, 43-12-13, 43-12-17, 43-12-18, 43-12-19, 43-12-21, 43-12-22, and 43-12-24 of the North Dakota Century Code, relating to the regulation of the practice of professional nursing; to provide for a state board of nursing and to define the powers and duties of the board including licensure of practitioner of nursing and establishment of standards for educational programs preparing for nursing practice, and to prescribe penalties for violations of the provisions of this Act; and to repeal sections 43-12-14, and 43-12-23 of the North Dakota Century Code, relating to meetings of the board and revocation of certificates.

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

§ 1. **Amendment.)** Section 43-12-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-12-01. Definitions.) In section 43-12-01 through 43-12-24, unless the context or subject matter otherwise requires:

1. "Board" shall mean the North Dakota state board of nursing;
2. The practice of professional nursing means the performance for compensation of any act in the observation, care and counsel of the ill, injured or infirm, or in the maintenance of health or prevention of illness in others, or in the supervision and teaching of other personnel, or in the administration of medications and treatments as prescribed by a licensed physician or dentist; requiring substantial specialized judgment and skill based on knowledge and applications of the principles of biological, physical and social science. The foregoing shall not be deemed to include acts of diagnosis or prescription of therapeutic or corrective measures;
3. "Professional nurse" or "registered nurse" shall mean one who has met all the legal requirements for licensure in this state, has been registered by the board, and who holds a certificate of licensure for the current year, acquired according to the provisions of sections 43-12-01 through 43-12-24.

§ 2. Amendment.) Section 43-12-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-12-02. Persons Exempted.) The provisions of sections 43-12-01 through 43-12-24 shall not apply to:

1. Gratuitous nursing of the sick by friends or members of the family, or to
2. The furnishing of nursing assistance in a natural or manmade disaster; or
3. The practice of nursing which is incidental to their program of study by students enrolled in nursing education programs accredited by the board;
4. The practice by a graduate of a North Dakota accredited school of nursing between the dates of graduation and notification of results of the first licensing examination for which such person is eligible;
5. The practice of any legally licensed nurse who is currently employed by the United States Government or any bureau, division or agency thereof, while in the discharge of his or her official duties.

§ 3. Amendment.) Section 43-12-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-12-03. North Dakota State Board of Nursing—Members — Appointment — Terms of Office.) The North Dakota state board of nursing shall consist of five professional nurses, appointed by the governor for terms of five years each, so arranged that one term shall expire on the thirtieth day of June in each year, and in addition for matters pertaining to practical nursing, there shall be two licensed practical nurses appointed by the governor for terms of four years each, so arranged that one term shall expire on the 30th day of June each odd number year. Each member of the board shall hold office until her successor is appointed and qualified. Persons appointed to the board shall take the oath required of civil officers. Vacancies on the board shall be filled by appointment by the governor for the remainder of the unexpired term. No appointee shall serve more than two consecutive terms.

§ 4. Amendment.) Section 43-12-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-12-04. Qualifications of Professional Nurse Members of the Board.) No professional nurse shall be appointed as a

member of the board unless such person has the following qualifications:

1. Is recommended by the North Dakota state nurses' association;
2. Is licensed in North Dakota;
3. Has resided at least two years in North Dakota;
4. Is currently engaged in nursing, teaching or administration;
5. Has had at least five years' experience in the nursing profession including teaching, administration or supervision; and
6. Has graduated from an accredited university or college.

At least ten days before an appointment is to be made, the North Dakota state nurses' association shall recommend three persons to the governor for such appointment.

§ 5. **Amendment.)** Section 43-12-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-12-05. Board—Organization—Meetings—Officers—Bond of Treasurer—Office of Board.) The board shall meet annually at its office in the state capitol for the purpose of organization. At such meeting the members of the board shall elect from their number a president, a vice president, a secretary, and a treasurer. The office of the secretary and treasurer may be held by the same person, if so determined by the board. The treasurer shall be bonded in a penal sum equal at least to the largest amount of money which will come into his or her hands in any one year. The amount of such bond shall be determined by the board and in no event shall be less than two thousand dollars. The bond shall be filed in the office of the secretary of state.

In addition, the board shall hold at least two regular meetings in each year for the examination of applicants for licensure as professional nurses and such additional meetings at such times and places as it may determine.

§ 6. **Amendment.)** Section 43-12-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-12-06. Compensation of Members of Board—Expenses—How Paid.) Each member of the board shall receive a per diem fee, not to exceed ten dollars per day and the expenses necessarily incurred while actually engaged in the performance of the duties of his or her office. Such compensation shall be paid from fees received by the board under the provisions of sections 43-12-01 through 43-12-24.

§ 7. Amendment.) Section 43-12-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-12-07. Powers and Duties of Board.) The board may draw up such rules and regulations as are necessary to carry out the provisions of sections 43-12-01 through 43-12-24 and shall:

1. Adopt an official seal which shall remain in the custody of the executive secretary of the board;
2. Maintain a permanent record, wherein the names of the schools of nursing accredited under the provisions of sections 43-12-01 through 43-12-24 are listed;
3. Maintain a permanent register at all times, of the names of all persons to whom licenses to practice professional nursing are issued. Such register at all times shall be open to public inspection;
4. Maintain a roster of nurses who desire to retire temporarily from the practice of nursing in this state;
5. Employ an executive director of nursing education who may also act as executive secretary of the board. The board shall define the duties of such offices and fix the salaries for its officers or employees;
6. Receive all fees and moneys collected under sections 43-12-01 through 43-12-24. Such moneys shall be deposited in a bank as authorized by the board;
7. Pay all necessary expenditures for clerical help, printing, postage, travel, nursing surveys, evaluation and administration of examinations, office equipment and maintenance, attendance at board meetings, and execute any other legitimate project pertaining to nursing education and schools of nursing; and
8. Report all receipts and expenditures of said funds at the close of each fiscal year to the governor and the legislative assembly. Any balance of such fees after payment of such compensation and expenditures by the treasurer of the board shall be held by the board and is to be used only in administering sections 43-12-01 through 43-12-24.

§ 8. Amendment.) Section 43-12-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-12-08. Accreditation of School of Nursing—Fee—Revocation of Accreditation.) Any school to be accredited under the provisions of sections 43-12-01 through 43-12-24 shall meet the requirements of the board for such a school and shall be

required to pay an annual fee of fifty dollars to the treasurer of the board for the annual survey and necessary consultant services. If such school subsequently becomes disqualified by failure to comply with terms and requirements for accreditation, such school shall pay fifty dollars to the treasurer for a new survey.

§ 9. Amendment.) Section 43-12-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-12-09. Schools of Nursing—Qualifications of Applicants for Admittance.) Before any school of nursing shall admit a student for a professional nursing course, the student shall present certified evidence that he or she has completed at least sixteen units of high school work, one of which may be one unit of physical education or an equivalent education. An applicant graduating from a non-accredited high school who has taken the state examinations, shall present certified evidence from the superintendent of public instruction to the effect that he or she has earned the prescribed number of units. A student graduating from an accredited high school shall present certified evidence from the superintendent of such school to the effect that he or she has earned the prescribed number of high school units. Applicants from other states or foreign countries shall present certified transcripts of credits to show preliminary education equivalent to that required of North Dakota residents.

§ 10. Amendment.) Section 43-12-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-12-12. License Required—Title—Abbreviation.) In order to safeguard life and health, any person before practicing or offering to practice professional nursing in this state for compensation, shall be required to submit evidence that he or she is qualified so to practice, and shall first be licensed as hereinafter provided. After July 1, 1963 it shall be unlawful for any person not licensed under the provisions of sections 43-12-01 through 43-12-24:

1. To practice or offer to practice professional nursing in this state; or
2. To use the title "registered nurse", the abbreviation "R.N.", or any other sign, card or device to indicate that such person is a professional registered nurse.

§ 11. Amendment.) Section 43-12-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-12-13. Examination Required — Application — Fee for Examination — Qualifications for Examination.) Any person who desires to practice professional nursing in this state shall pass the examination given by the board before a certificate of licensure shall be issued. Such person shall make an application for licensure to the executive secretary of the board at least three weeks prior to the date set for the examination and shall pay to the treasurer of the board at the time of making such application the sum of twenty dollars. Enclosed with such application, proof shall be submitted that the applicant has the following qualifications:

1. Is at least twenty years of age;
2. Is a citizen of the United States provided, however, that if the applicant is not at the time a citizen of the United States, he or she shall be permitted to write the examination and upon passing may be granted a temporary license valid for not to exceed six years. Such license may be converted by the board into a permanent license only upon his or her acquiring full United States citizenship before the expiration of such period and only if, during the entire period from the issuance of such license until the acquisition of citizenship, he or she has practiced the profession of nursing, and has resided continuously within this state;
3. Is of good moral character;
4. Has received the preliminary education required in section 43-12-09 for admission to a school of nursing; and
5. Has successfully completed the required accredited professional nursing education programs.

§ 12. **Amendment.)** Section 43-12-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-12-17. Re-Examination — Fees for Re-Examination — Qualifications for Examination.) The board may make such rules and regulations as it deems necessary for the re-examination of applicants who fail to pass a regular examination. A fee of five dollars is required for the rewriting of each subject failed.

§ 13. **Amendment.)** Section 43-12-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-12-18. Certificate of Licensure Issued to Applicant Licensed in Another State—Examination Not Required.) The board may issue a certificate of licensure to practice professional nursing in this state to an applicant who has not taken the examination if he or she:

1. Produces satisfactory evidence of having been duly licensed by another state or a foreign country to practice therein as a professional nurse;
2. Meets the qualification requirements for nurse licensure in this state;
3. Is a citizen of the United States or meets the qualifications of the North Dakota Licensure Act as stated in section 43-12-13; and
4. Pays a twenty dollar licensure fee.

Upon receipt of the application for license and payment of the twenty dollar license fee, and evidence that the applicant shall have met all the requirements of this chapter, the board shall issue the applicant a temporary permit to practice professional nursing in this state until the license has been issued. Such temporary permit shall expire at the end of ninety days and may be renewed only for reasons satisfactory to the board.

§ 14. Amendment.) Section 43-12-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-12-19. Permit to Practice Nursing Issued to Applicant Who Is Not a Citizen.) The board, in case of an emergency, may issue a temporary permit to practice professional nursing in this state to an applicant who has all the required qualifications for nurse licensure except that of citizenship. The fee for such a permit shall be twenty dollars for the first year and it may be renewed for reasons satisfactory to the board upon the payment of a fee of four dollars per year.

§ 15. Amendment.) Section 43-12-21 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-12-21. Renewal of Certificate of Licensure—Fee—Failure to Pay—Relicensure—Roster of Inactive Nurses.) A certificate of licensure issued under the provisions of sections 43-12-01 through 43-12-24 shall be valid for only one year and shall be renewed on or before the thirty-first day of December in each year. The fee for the renewal certificate shall be four dollars. On or before the first day of November in each year the executive director of the board shall mail to all registered nurses an application form for a renewal certificate. The application and fee shall be in the hands of the executive director of the board by the thirty-first day of December in each year. The failure of any person to renew his or her license annually shall suspend his or her right to practice professional nursing in this state, but he or she may be relicensed by paying the required renewal fee of five dollars

for each year it has not been paid but not to exceed twenty-five dollars for failure to complete his or her licensure on time.

A roster, as provided for in subsection 4 of section 43-12-07, shall be compiled by the executive director of the board. Any nurse, upon payment of one dollar, who voluntarily places his or her name on such roster on or before the first day of January in the year he or she desires to retire temporarily from the practice of nursing may be relicensed in any subsequent year by paying the current annual fee for a certificate of licensure without incurring any penalty. Nurses who have not placed their names on such roster shall be subject to payment of the required renewal fee for each year it has not been paid as specified.

§ 16. Amendment.) Section 43-12-22 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-12-22. Revocation of—License or Permit—Grounds for—Discipline—Appeal—Board to Furnish List of Persons Having Licenses Revoked to Other States.) The board shall have the power to deny, revoke or suspend any license or permit to practice nursing issued by the board in accordance with the provisions of this chapter, or to otherwise discipline a licensee upon proof that the person:

1. Is guilty of fraud or deceit in procuring or attempting to procure a license to practice nursing; or
2. Is guilty of a crime of moral turpitude; or
3. Becomes unfit or incompetent to practice by reason of gross negligence; or
4. Is habitually intemperate or is addicted to the use of habit-forming drugs; or
5. Is mentally incompetent; or
6. Is guilty of unprofessional conduct; or
7. Has willfully or repeatedly violated any of the provisions of this chapter.

Upon filing of a sworn complaint with the board, charging a person with having been guilty of any of the actions specified as a ground for disciplinary action, the executive officer of the board shall fix a time and place for a hearing and shall cause a copy of the charges, together with a notice of the time and place fixed for the hearing, to be served on the accused at least ten days prior thereto. The attendance of witnesses and the production of books, papers, and documents at the hearing may be compelled by subpoenas issued by the board, which shall be served in accordance with the law. At the

hearing the board shall administer such oaths as may be necessary for the proper conduct of the hearings. At the hearing the accused shall have the right to appear either personally or by counsel, or both, to produce witnesses or evidence on his or her own behalf, to cross-examine witnesses and to have subpoenas issued by the board. If the accused is found guilty of the charges the board may refuse to issue a license to the applicant, or may revoke, suspend or reprimand a licensee. A revoked or suspended license may be reissued after one year, in the discretion of the board. The board shall keep a record of all its proceedings in the matter of revoking or suspending licenses or permits, together with the evidence offered. An appeal from the final decision of the board revoking or suspending a license to practice professional nursing in this state may be taken to the district court of Burleigh County in accordance with the provisions of chapter 28-32. The board shall furnish a list of the names and addresses of those whose certificates have been revoked to the boards of nursing, or comparable boards of all other states.

§ 17. **Amendment.)** Section 43-12-24 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-12-24. Violation — Penalties.) No person, corporation, association, or individual shall:

1. Sell or fraudulently obtain or furnish any nursing diploma, license, renewal, or record or aid or abet therein; or
2. Practice nursing as defined by this chapter under cover of any diploma, license, or record illegally or fraudulently obtained or signed or issued unlawfully or under fraudulent representation; or
3. Practice professional nursing as defined by this chapter unless duly licensed to do so under the provisions of this chapter; or
4. Use in connection with his or her name any designation tending to imply that he or she is a licensed registered nurse unless duly licensed so to practice under the provisions of this chapter; or
5. Practice professional nursing during the time his or her license issued under the provisions of this chapter shall be suspended or revoked; or
6. Conduct a nursing education program for the preparation of professional nurses unless the program has been accredited by the board; or
7. Otherwise violate any provisions of this chapter.

Any violation of this section shall be a misdemeanor and shall be punishable by a fine of not less than ten dollars nor more than one hundred dollars for a first offense. Each subsequent offense shall be punishable by a fine of one hundred dollars or by imprisonment for not more than thirty days or by both such fine and imprisonment.

§ 18. Repeal.) Sections 43-12-14 and 43-12-23 of the North Dakota Century Code are hereby repealed.

Approved March 9, 1963.

CHAPTER 308

H. B. No. 576
(Johnston)

NURSING SCHOLARSHIPS

AN ACT

To amend and reenact subsection 1 of section 43-12-25, sections 43-12-26, 43-12-28, 43-12-29, subsection 3 of section 43-12-30, and section 43-12-31 of the North Dakota Century Code, providing that a requirement in obtaining a nursing scholarship shall be the need of the recipient and that such recipient shall serve in a North Dakota hospital or institution for two years after completion of the nursing education.

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

§ 1. Amendment.) Subsection 1 of section 43-12-25 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. "State board" shall mean the North Dakota state board of nursing and advisory committee hereinafter provided for;

§ 2. Amendment.) Section 43-12-26 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-12-26. Advisory Committee.) There shall be an advisory committee composed of three members, to be designated by the North Dakota council on health careers. This advisory committee shall assist the state board in awarding scholarships.

§ 3. Amendment.) Section 43-12-28 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-12-28. Qualifications of Candidates.) A person shall not be selected as a candidate for a scholarship unless such applicant be at least eighteen years of age. In selecting candidates for scholarships, consideration shall be given to:

1. Adaptability to nursing,
2. Health,
3. Character,
4. Person-social characteristics,
5. Record of level of achievement,
6. Capacity and willingness upon graduation to nurse in a hospital or institution in North Dakota for two years, and
7. Financial need for such scholarship in pursuing education in the field of nursing.

§ 4. Amendment.) Section 43-12-29 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-12-29. Use of Scholarship.) These scholarships shall be used, first, to pay the tuition and other institutional fees and expenses of the recipient incidental to such nursing education; second, to defray the cost of books and equipment needed by the recipient in pursuit of studies and, third, for partial subsistence of the recipient through facilities operated by the school or college. Scholarships shall be awarded only to students enrolled in an accredited school of nursing; to students enrolled in an approved course for practical nurses; and to professional graduate nurses enrolled in a college or university. Any facilities of the school designed to aid in securing part-time employment for students, to help defray costs of their education shall be made available to a recipient of a scholarship on an equal basis with other students enrolled. Scholarship holders may not continue to hold the scholarship unless they maintain a satisfactory grade average as set by the state board.

§ 5. Amendment.) Subsection 3 of section 43-12-30 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. The fund shall provide for scholarships for professional graduate nurses desiring to take advanced courses in nursing education which further qualifies applicant for a position or leads to a baccalaureate or higher degrees. After one year of such advanced study the recipient shall be required to return to North Dakota for a position to be held for at least two years. The professional graduate nurse shall receive a scholarship not to exceed one thousand two hundred fifty dollars for

advanced study in a college or university which may lead to a degree. The scholarship shall be allotted according to rules and regulations adopted by the state board.

§ 6. Amendment.) Section 43-12-31 of the North Dakota North Dakota Century Code is hereby amended and reenacted to read as follows:

43-12-31. Collection and Cancellation.) 1. A rate of six percent per annum will be charged on any portion of the scholarship not repaid upon demand of the state board.

2. If any nurse student scholarship recipient, before the notes provided in section 43-12-25 through 43-12-31 have been called for payment, has satisfactorily completed the required basic course in nursing and has satisfactorily completed two full years of nursing in North Dakota the notes and accrued interest shall be canceled.

3. For the practical nurse student scholarship recipient the note shall bear interest at the rate of three percent per annum and shall become due and payable with accrued interest at the expiration of the one year period. Upon the fulfillment of the requirements herein set forth the note and accrued interest shall be canceled.

4. The note of the professional graduate nurse shall bear interest at the rate of three percent per annum. Upon the fulfillment of the requirements herein set forth the note with accrued interest shall be canceled.

5. Upon satisfactory proof of the requirements herein set forth, the board shall notify the state treasurer to cancel the notes.

Whenever less than two full years of nursing has been completed the notes may be canceled in the order of execution corresponding with the months of nursing which are completed. In the event of death or total disability of the recipient the notes and accrued interest shall be canceled.

Approved March 13, 1963.

CHAPTER 309

H. B. No. 561
(Wagner)

PHARMACISTS' QUALIFICATIONS

AN ACT

To amend and reenact subsection 4 of section 43-15-15 of the North Dakota Century Code, relating to the qualifications of a registered pharmacist and the practical experience required prior to registration.

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

§ 1. Amendment.) Subsection 4 of section 43-15-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. Before a certificate will be granted by the North Dakota board of pharmacy, the applicant must have at least one year 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. Any employment of the applicant prior to his completion of the first year of study in a college of pharmacy or its equivalent shall not be applied in computing the fulfillment of this requirement.

Approved February 23, 1963.

CHAPTER 310

H. B. No. 562

(Wagner)

PHARMACISTS' REGISTRATION

AN ACT

To amend and reenact section 43-15-25 of the North Dakota Century Code, relating to the registration of pharmacists and increasing the annual fee charged for the renewal of such registration.

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

§ 1. **Amendment.)** Section 43-15-25 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-15-25. Term of Certificate—Renewal—Fee—Where Displayed.) The certificate issued by the board to a pharmacist or assistant pharmacist under the provisions of this chapter, and the registration thereof, shall entitle the holder to act in the capacity therein stated for one year unless duly canceled, suspended, or revoked. Every registrant who desires to retain his registration, on or before the first day of March in each year, shall pay to the secretary of the board a renewal fee in an amount to be fixed by the board not to exceed ten dollars. Upon the payment of the fee, a renewal certificate shall be issued. The certificate and renewal shall be displayed in a conspicuous place in the pharmacy and drug store where the holder is employed. After a registrant has held certificates duly issued over a period of fifty consecutive years, the secretary of the board may issue such registrant a lifetime certificate which will entitle the registrant to act in the capacity of pharmacist thereafter without further payment unless such certificate is canceled, revoked, or suspended.

Approved February 23, 1963.

CHAPTER 311

S. B. No. 340
(Sinner, Reichert, George)

PHARMACY PERMITS

AN ACT

To amend and reenact section 43-15-35 of the North Dakota Century Code, relating to the requirements for issuance of permits to operate pharmacies.

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

§ 1. Amendment.) Section 43-15-35 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-15-35. Requirements for Permit to Operate Pharmacy.)

The board shall issue a permit to operate a pharmacy, or a renewal permit, upon satisfactory proof that:

1. The pharmacy will be conducted in full compliance with existing laws and with the rules and regulations established by the board;
2. The equipment and facilities of the pharmacy are such that prescriptions can be filled accurately and properly, and United States Pharmacopoeia and National Formulary preparations properly compounded and so that it may be operated and maintained in a manner that will not endanger public health and safety;
3. The pharmacy is equipped with proper pharmaceutical and sanitary appliances and kept in a clean, sanitary, and orderly manner;
4. The management of the pharmacy is under the personal charge of a pharmacist duly registered under the laws of this state;
5. The applicant for such permit is qualified to conduct the pharmacy, and is a registered pharmacist in good standing or is a partnership, each active member of which is a registered pharmacist in good standing, or a corporation or association, the majority stock in which is owned by registered pharmacists in good standing, actively and regularly employed in and responsible for the management, supervision, and operation of such pharmacy; and
6. The pharmacy has on file at all times the latest decennial revision of the United States Pharmacopoeia and

the latest edition of the National Formulary, and supplements thereto. These books must be in evidence at all times to the board and its properly authorized agents.

The provision of subsection 5 of this section shall not apply to the holder of a permit on July 1, 1963, if otherwise qualified to conduct the pharmacy, provided that any such permit holder who shall discontinue operations under such permit or fail to renew such permit upon expiration shall not thereafter be exempt from the provisions of such subsection as to such discontinued or lapsed permit. The provisions of subsection 5 of this section shall not apply to hospital pharmacies furnishing service only to patients in such hospital.

Approved March 11, 1963.

CHAPTER 312

H. B. No. 796
(Brown, Wagner)

PLUMBERS' LICENSE FEES

AN ACT

To amend and reenact sections 43-18-13 and 43-18-17 of the North Dakota Century Code, relating to license fees of plumbers.

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

§ 1. Amendment.) Section 43-18-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-18-13. License—How Obtained—Fee.) Any person qualified under the rules of the board who desires to take the examination to become a registered and licensed plumber shall make application to the board therefor and pay to the treasurer of the board the examination fee. Such fee shall be sixty dollars for a master plumber's certificate and license and twenty dollars for a journeyman plumber's certificate and license. The applicant shall present himself at the next regular meeting of the board for examination of applicants. If upon examination the applicant is found by the board to be qualified as a master plumber or journeyman plumber, or both, it shall issue to him a certificate of registration and license which shall entitle him to do the work and be a plumber as specified in the license. A master plumber's and

journeyman plumber's license may be issued to one and the same person, and the holder of a master plumber's license may be granted a journeyman plumber's license without the payment of the journeyman's fee. All certificates and licenses shall be numbered consecutively and shall not be transferable, and no person shall work under the license issued to another person.

§ 2. Amendment.) Section 43-18-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-18-17. Renewal of License—Fee.) A certificate and license issued under the provisions of this chapter shall be valid for only one year and shall expire on the thirty-first day of December of the year in which it was issued. The certificate shall be renewed by the board upon application made within thirty days after the expiration thereof and on the payment of the sum of sixty dollars for a master plumber's certificate and license, and the sum of twenty dollars for a journeyman plumber's certificate and license. The board, when the condition of its fund permits and when in its judgment it is deemed advisable, may reduce the amount of the renewal fees, but it may not increase the same. Any such change shall be adopted by the board to take effect on the first day of January following its action and shall apply to all renewals in the classes specified in the ruling.

Approved March 13, 1963.

CHAPTER 313

H. B. No. 846

(Winge, Johnson, Connolly, Haugland, Schnell)

PRACTICAL NURSES' LICENSING

AN ACT

To amend and reenact sections 43-21-01, 43-21-02, 43-21-03, 43-21-04, 43-21-07, 43-21-08, 43-21-09, and 43-21-11 of the North Dakota Century Code, relating to the regulation of the practice of practical nursing and to provide for examination and licensure of practitioners of practical nursing.

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

§ 1. Amendment.) Section 43-21-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-21-01. Definitions.) In this chapter unless the context or subject matter otherwise clearly requires:

1. "The practice of practical nursing" means the performance for compensation of selected acts in the care of the ill, injured, or infirm under the direction of a registered professional nurse or a licensed physician or a licensed dentist; and not requiring the substantial specialized skill, judgment, and knowledge required in professional nursing;
2. "Licensed practical nurse" is a person duly authorized under this Act to practice practical nursing; and
3. "Board" shall mean the North Dakota State Board of Nursing.

§ 2. Amendment.) Section 43-21-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-21-02. Persons Exempted from the Provisions of This Chapter.) The provisions of this chapter shall not apply to gratuitous nursing of the sick by friends or members of the family or any person nursing or caring for the sick for hire who does not pretend to be a licensed practical nurse.

§ 3. Amendment.) Section 43-21-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-21-03. Examination Required — Application — Fee for Examination — Qualifications for Examination.) Any person who desires to be licensed as a practical nurse by examination in this state shall submit an application, with a fee of fifteen dollars to the executive director of the board at least ten days prior to the date set for the examination. The applicant shall enclose with her application proof that she possesses the following qualifications:

1. Has reached the age of eighteen years;
2. Is of good moral character;
3. Has at least an eighth grade education, or its equivalent, and such other preliminary qualifications as the board, from time to time, by rule and regulation may prescribe;
4. Has successfully completed an accredited course for the preparation of licensed practical nurses; and
5. Is a citizen of the United States, or has declared her intention of becoming a citizen.

§ 4. Amendment.) Section 43-21-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-21-04. Examination and Licensing of Practical Nurses—Re-Examination Fee.) The state board shall prescribe rules and regulations consistent with the provisions of this chapter for the examination, licensing, and regulation of practical nurses. Written examinations shall be held at least twice in each year, at a time and place to be designated by the state board. Upon successfully passing the examination as administered by the board, the board shall issue to such applicant a license to practice as a licensed practical nurse. A fee of five dollars shall be required for rewriting each examination failed.

§ 5. Amendment.) Section 43-21-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-21-07. Disposition of Fees.) All fees received shall be held subject to the order of the board to be used only for the purpose of meeting necessary expenses incurred in the performance of the duties imposed upon the board by this chapter, and in carrying out the provisions of this chapter.

§ 6. Amendment.) Section 43-21-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-21-08. Renewal of License—Failure to Renew—Roster.) The license issued under this chapter must be renewed annually and a fee of three dollars shall be submitted with every application for renewal. On or before November first of each year, the executive director of the board shall mail to each licensed practical nurse an application form for renewal of license. Such form must be completed and returned to the executive director of the board together with the renewal fee of three dollars on or before the thirty-first day of December. The failure of any licensee to renew her license annually shall suspend the right of such person to practice in this state as a licensed practical nurse. A penalty fee of one dollar, in addition to the renewal fee, shall be required where the licensee fails to file the renewal application within the time provided for in this section.

A roster shall be compiled by the executive director of the board. Any nurse, upon payment of one dollar, who voluntarily places her name on such roster on or before the first day of January in the year she desires to retire temporarily from the practice of nursing may be relicensed in any subsequent year by paying the current annual fee for a certificate of licensure without incurring any penalty. Nurses who have not placed their name on such roster shall be subject to payment of the required renewal fee as specified.

§ 7. **Amendment.)** Section 43-21-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-21-09. Revocation of License—Hearing—Furnishing Information to Other States.) The board may revoke any license issued under the provisions of this chapter for gross incompetence, dishonesty, or any other act which shall constitute just cause for such revocation. Such revocation shall be by a majority vote of the entire board and after a hearing has been held on specific charges filed against such licensee, which charges shall be made in writing under oath and filed by the executive director. A certified copy of the charges and a notice of the hearing before the board shall be served on the licensee whose license is sought to be revoked not less than twenty or more than thirty days prior to the hearing on such charges. The board shall furnish to the boards of nursing of other states, a list of names and addresses of persons whose licenses have been revoked for cause.

§ 8. **Amendment.)** Section 43-21-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-21-11. Accredited Educational Courses for Practical Nurses.) Any institution, under rules and regulations to be adopted by the board, which shall be qualified to conduct a course for educating practical nurses, shall apply to the board and submit an application giving evidence that it is prepared to give a course of not less than nine months nor more than twelve months for preparing practical nurses, and that such institution further is able to meet standards prescribed by statute and the board for the education of practical nurses. A fee of twenty-five dollars shall accompany such application. Upon receipt of such application and fee, the board shall make a survey of the institution. If, in the opinion of the members of the board, the requirements for an accredited course for educating practical nurses are met by such institution, it shall approve the institution as qualified to give an accredited course for education of practical nurses. It shall further be the duty of the board to survey all schools for the education of practical nurses annually. Written reports of such survey shall be prepared. If the board shall determine, as a result of such survey, that any institution heretofore accredited as a school for education of practical nurses, is not maintaining the standards required by law and by the rules and regulations of the board, notice thereof shall immediately be given to such school. If requirements of the board are not complied with within a reasonable time set by the board in such notice, such school shall be removed from the list of accredited

schools authorized to offer courses for the education of practical nurses within this state.

§ 9.) Two licensed practical nurses, as defined in section 43-21-01, shall be appointed by the governor as representatives on the board of nursing to serve four year terms. Appointments shall be made from a list of three licensed practical nurses submitted by the North Dakota licensed practical nurses association. Appointees shall be present for those sessions of the state board of nursing pertaining to practical nursing. No appointee shall serve for more than two successive terms.

Such person must have the following qualifications:

1. Is licensed in North Dakota;
2. Has resided at least four years in North Dakota;
3. Is currently engaged in practical nursing; and
4. Has had at least five years' experience in practical nursing.

Approved March 16, 1963.

CHAPTER 314

S. B. No. 143
(Brooks, Robinson, Lips)

VETERINARY PRACTICE ACT

AN ACT

Establishing a veterinary practice Act; defining its purposes; providing for the appointment, qualifications and terms of office of the state board of veterinary medical examiners, its officers and meetings of the board, the examination of applicants for license to practice veterinary medicine and the issuance of certificate of qualification to applicants passing examination and temporary permits pending examinations; authorizing the board to make rules and regulations, enter into reciprocal agreements with examining boards of other states and nations, adopt a code of ethics and make inspections of premises; fixing the compensation and expenses of members of the board and officers; prohibiting the practice of veterinary medicine, surgery, or dentistry without a certificate or permit issued by the board and prior graduation from an approved school, college or university; fixing the fees for examination and registration, renewal fees; providing for issuance of certificate of registration, roster of registered veterinarians, change of address, display of certificate and renewal of registration on forfeiture; defining veterinary medicine; stating grounds authorizing board to refuse, suspend or revoke license and certificate of registration and providing for hearing and procedure on charges and appeal to district court; exempting certain practices from Act; fixing penalty for unlawful practice of veterinary medicine; declaring effect of invalidity of part of Act; and repealing chapter 36-02 of the North Dakota Century Code.

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

§ 1. Purpose of the Act.) This Act shall be deemed an exercise of the police powers of the state of North Dakota acting through the legislative assembly to the end that the general welfare of the agricultural public, the livestock industry and the people as a whole will be preserved and enhanced through the control and supervision hereby vested in the North Dakota state board of veterinary medical examiners, in licensing of veterinarians, defining their scope of activity in treatment of livestock, fixing their responsibility in the conduct of their practice, and preventing unqualified persons from engaging in such practice by instituting the necessary legal proceedings for the law's proper enforcement.

§ 2. State Board of Veterinary Medical Examiners—Appointments — Qualifications — Terms — Vacancies.) The state board of veterinary medical examiners shall consist of three members appointed by the governor for terms of three years each, with their terms of office so arranged that one term

and only one shall expire each year. Members of the board shall hold their respective offices until their successors are appointed and qualified. Each member shall be a reputable, practicing and licensed veterinarian in North Dakota for five years immediately prior to the appointment, and shall be the holder of a diploma or degree granted by a veterinary school, or by a college or university recognized by the American veterinary medical association.

The North Dakota veterinary medical association shall, at each annual meeting nominate three veterinarians qualified to serve on the state board of veterinary examiners. Such names shall be certified to the governor by the secretary of such association and the appointment by the governor shall be made from the nominees so submitted.

If any vacancy occurs on the board due to resignation, death, removal from the state, or suspension as herein provided, or for any other reason, the governor shall fill such vacancy from the roster of qualified licensed veterinarians within the state until the next succeeding first day of July.

The governor may, after due notice and hearing, remove any member of the board of veterinary examiners for misconduct, incapacity, or neglect of duty.

§ 3. Officers of Board — Seal — Meetings — Limitations on Meetings—Examinations—Rules and Regulations—Reciprocity—Code of Ethics—Inspections.) The state board of veterinary medical examiners shall elect a president and a secretary. The board shall have a common seal, and the president and the secretary thereof may administer oaths. It shall hold meetings semiannually in the spring and fall of each year for the examination of candidates at a time and place specified by said board. This board may hold such other meetings as it may deem necessary at such time and place as it shall designate. No session of the board shall exceed two days.

A quorum of the board shall consist of two members and such quorum shall be sufficient to conduct the business and proceedings of the board set forth in this Act, except that any changes in the rules and regulations must be taken at a meeting at which all of the members are present.

The board is hereby authorized and empowered to promulgate, revise, alter, amend and enforce reasonable rules, regulations, and orders which it determines in its discretion to be necessary to the performance of its duties and the regulation of the practice of veterinary medicine; to prescribe forms for application for examination; to prepare and supervise examination of applicants for license to practice veterinary

medicine; to obtain the services of professional examination agencies in lieu of its own preparation of such examinations; to issue and revoke licenses as hereinafter provided; and to amend the code of ethics.

The board may, in its discretion, enter into reciprocal agreements with the examining boards of other states and nations, governing the granting of licenses to practice veterinary medicine and surgery in the state of North Dakota without the applicant taking a written examination. Under no circumstances, however, shall any reciprocal agreement be entered into with the board of another state or nation unless the requirements for the granting of licenses in the other state or nation are on an equal or higher standard to the requirements of North Dakota. The board may prescribe by regulation any other terms or conditions to be contained in any such agreements. The fee for license by reciprocity agreement shall be twenty-five dollars.

It shall be the duty of the board of veterinary examiners to adopt as the code of ethics for the practice of the veterinary profession in this state the principles of veterinary medical ethics adopted by the house of delegates of the American veterinary medical association August 13, 1960, and approved by the North Dakota veterinary medical association June 18, 1962, and any amendments or changes thereof.

The board or an authorized representative may at any time inspect the premises in which veterinary medicine, surgery, or dentistry is being practiced.

§ 4. Record of Proceedings of Board—Register of Applicants Kept by Board—Records and Register as Evidence.) The state board of veterinary medical examiners shall keep a record of all its proceedings and also a record or register of applicants for licenses showing as to each such applicant his name, time spent by him in the study and practice of veterinary medicine, surgery, or dentistry, and the name and location of the school, college, or university which granted him a degree or diploma. Such books and records shall be prima facie evidence of the matters recorded therein.

§ 5. Compensation and Expenses of Members of Board.) Each member of the board shall receive the sum of twenty-five dollars for each day actually engaged in attending meetings of the board, and all necessary traveling expenses actually incurred in attending such meetings. The secretary or any member of the board shall receive the sum of twenty-five dollars per day and necessary traveling expenses for each day actually engaged as a witness in cases of prosecution that originate under any provision of this Act.

The secretary of the board shall receive a salary of fifty dollars a month, such compensation to be paid out of the state treasury from the funds received under the provisions of this Act.

Each biennium the secretary must furnish the state budget board with suggested budget requirements for the following two years.

The board may select one of its members to attend the annual meeting of the national organization of state examining boards. The member so selected shall receive his necessary traveling and hotel expenses.

The board shall incur no expense exceeding the sum received as fees, as hereinafter provided.

§ 6. Graduation from Recognized School and Certificate or Permit from Board Required—Application for License.) No person shall practice, or hold himself out as a practitioner in veterinary medicine, surgery, or dentistry, or any department thereof, unless he is a graduate of the veterinary course offered in a veterinary school or in a college or university recognized by the American veterinary medical association, nor unless he possesses a certificate or permit issued by the state board of veterinary medical examiners which is in full force and effect.

Any person qualified under the provisions of this Act, desiring to begin the practice of veterinary medicine or veterinary surgery in the state of North Dakota, shall make application to said board for license to do so. Such application shall be made at least thirty days prior to the meeting of the board. The board shall give public notice of the time and place for the examination.

§ 7. Fees for Examination and Registration—Renewal Fees—Certificate of Registration—Roster of Registered Veterinarians—Change of Address—Display of Certificate—Renewal of Registration Upon Forfeiture.) A person applying for examination and registration under this chapter shall present his diploma or certificate to the board and shall pay in advance to the secretary of the board a fee of twenty-five dollars. Annually thereafter, for such time as he shall continue practice, he shall pay a renewal registration fee of not less than five and not more than ten dollars annually as determined by the board, based on the financial needs of the board. The renewal registration fee shall be paid by all licensed veterinarians.

All veterinarians actually engaged and employed as such by the state, county, city, or by any corporation, firm or

individual are practicing veterinary medicine and shall secure a state license or certificate of qualification issued by the state board of veterinary examiners.

Each person licensed by the state board of examiners shall on or before the first day of July of each calendar year be required to pay the annual registration fee to the secretary. Before the first day of June of each calendar year the secretary of the board shall send a notice to each veterinarian who holds a license to practice veterinary medicine in the state, whether resident or not, at his last address, that his annual registration fee is due on or before the first day of July.

The secretary of the board shall issue a certificate of registration upon the payment of the required fee and publish biennially for proper distribution a roster of all veterinarians registered in the state of North Dakota, as soon as the registration for each two-year period is completed.

Each veterinarian licensed by the board, whether a resident or not, shall notify the secretary of any change in his office address or employment within sixty days after such change has taken place. Any person licensed to practice veterinary medicine after the fifteenth day of April, or any person issued a temporary permit to practice veterinary medicine after that date, is exempt from this requirement to pay the annual registration fee until the first day of July of the year following licensure.

Registration shall be deemed a condition precedent to the practice of veterinary medicine and surgery in this state, and a certificate of registration currently in effect must be on display at all times in the office of each veterinarian engaged in active practice.

Any person registered under this chapter who may have forfeited his registration by nonpayment of fees may renew the same within two years without examination by paying such fees.

The board may by rule waive the payment of the registration fee of a licensed veterinarian during the period when he is on active duty in connection with any branch of the armed forces of the United States.

§ 8. Certificate of Qualification Issued to Applicants Passing Examination—Conclusiveness of Certificate—Re-Examination.) The board shall issue a certificate of qualification to each applicant who passes such examination as the board may require and who is qualified under the provisions of this Act. Such certificate shall be signed by the president and the secretary of the board and shall remain in force upon payment of the renewal registration fee becoming due thereafter, and

so long as the holder complies with the provisions of this chapter. Notwithstanding the payment of such fee, his license may be suspended or revoked as provided hereinafter in this chapter.

Any applicant for license who shall fail to satisfy the board of veterinary medical examiners as to his qualifications may, upon application be re-examined within not less than six months upon payment of an additional fee of twenty-five dollars.

§ 9. Permit to Practice Issued by Secretary of Board.) Any person who desires to practice veterinary medicine, surgery, or dentistry may apply to the secretary of the state board of veterinary medical examiners for a permit to practice if he possesses a degree or diploma showing that he is a graduate of the veterinary course offered in a veterinary school or in a college or university recognized by the American veterinary medical association. Upon the payment of fifteen dollars by the applicant, the secretary, if he is satisfied that the applicant is a qualified and a suitable person, shall issue to him a permit to practice until the next examination is offered by the board. Such permit shall have the same force as a certificate from the board, but shall expire upon the adjournment of the next meeting thereof at which an examination is held.

Senior veterinary students who practice in the office of, and under the direct supervision of, a licensed veterinarian must obtain a temporary permit to practice veterinary medicine in this state. This temporary student permit shall not exceed four months from its date of issuance and will be granted without payment of a fee.

§ 10. Display of License and Certificate.) No person shall practice veterinary medicine in the state of North Dakota without possessing and displaying prominently in his or her principal office a license and a current and valid certificate of renewal issued pursuant to the provisions of this Act.

§ 11. Fees Collected Paid Into General Fund.) All fees collected under this chapter by the state board of veterinary medical examiners shall be paid into and shall become a part of the general fund of this state.

§ 12. Veterinary Medicine Defined.) Any person is conclusively presumed to practice veterinary medicine, surgery, and dentistry, and the various branches thereof when he does any one of the following:

1. Represents himself as engaged in the practice of veterinary medicine, veterinary surgery, or veterinary dentistry in any of its branches;

2. Diagnoses or prescribes a drug, medicine, appliance or application or treatment of whatever nature for the prevention, cure, or relief of a wound, fracture, or bodily injury or disease of animals;
3. Administers a drug, medicine, appliance or application or treatment of whatever nature for the prevention, cure, or relief of a wound, fracture, or bodily injury or disease of animals, except where such drug, medicine, appliance, or application or treatment is administered at the direction and under the direct supervision of a veterinarian licensed under this Act;
4. Performs a surgical operation upon an animal;
5. Performs any manual procedure for the diagnosis of pregnancy, sterility, or infertility upon livestock; or
6. Uses any words, letters, or titles in such connection or under such circumstances as to induce the belief that the person using them is engaged in the practice of veterinary medicine, veterinary surgery or veterinary dentistry. Such use shall be prima facie evidence of the intention to represent himself as engaged in the practice of veterinary medicine, veterinary surgery, or veterinary dentistry.

§ 13. Practices Excepted from Provisions of This Chapter.)

The following persons shall not be considered to be engaging in the practice of veterinary medicine in this state:

1. Those who administer to livestock, the title to which rests in himself, or in his regular employer, or those who perform gratuitous services;
2. Those who conduct experimentation in scientific research in the development of methods, techniques, or treatment, directly or indirectly applicable to the problems of medicine, and who in connection therewith use animals;
3. Those who are regular students in a legally chartered and recognized college of veterinary medicine, while in the performance of studies and acts assigned by their instructors;
4. Those who are licensed in another state or nation when engaged in this state in consultation with veterinarians legally practicing herein, providing such consultation does not exceed thirty days in any one year;
5. Those who are senior students in an approved school of veterinary medicine and who shall obtain from the board a student permit to practice in the office and under the direct supervision of any veterinarian practicing within this state;

6. Those who are employees of the United States of America or the state of North Dakota while in the performance of their duties as such employees; or
7. Those selling drugs, medicine, household remedies, or appliances at wholesale or retail and advising as to the use and purpose of such drugs, medicine, household remedies or appliances.

§ 14. Refusal, Suspension, and Revocation of License and Certificate.) The state board of veterinary medical examiners may either refuse to issue a license or refuse to issue a certificate of registration, or suspend, or revoke a license and certificate of registration upon any of the following grounds:

1. Fraud or deception in procuring the license;
2. The publication or use of any untruthful or improper statement, or representation, with a view of deceiving the public, or any client or customer in connection with the practice of veterinary medicine;
3. Habitual intemperance in the use of intoxicating liquors, or habitual addiction to the use of morphine, cocaine, or other habit-forming drugs; or conviction of a violation of any federal or state law relating to narcotic use;
4. Immoral, unprofessional, or dishonorable conduct manifestly disqualifying the licensee from practicing veterinary medicine;
5. Gross malpractice, including failure to furnish to the board, upon written application by it, any report or information relating thereto;
6. The employment of unlicensed persons to perform work which under this chapter can lawfully be done only by persons licensed to practice veterinary medicine;
7. Fraud or dishonest conduct in applying or reporting diagnostic biological tests or in issuing health certificates;
8. Failure of the licensee to keep his premises in a reasonably clean and sanitary condition, and failure to use reasonably sanitary methods in the practice of veterinary medicine; or
9. Violation of the ethics of the profession. The code of ethics adopted by the board shall be the standard of ethics for the licensed veterinarians of this state.

§ 15. Hearing on Charges—Appeal.) Any person may prefer charges on any of the grounds as set forth in subsections 1 to 8 of section 14 by filing with the board in writing a sworn statement setting forth the specific charges upon which complaint is made. Upon receiving any such complaint the board

shall give at least twenty days' notice to the person complained about of the time and place for hearing thereon, together with a copy of the complaint filed, and after hearing all evidence and testimony presented thereon, the board shall have the power to revoke, or suspend for a limited time, the license and registration certificate of any registrant found guilty by the board of improper conduct on any of the grounds as set forth in subsections 1 to 8 of section 14. Any person whose license has been revoked by the board may within thirty days thereafter upon written notice to the board appeal to the district court in the county of his residence for a hearing *de novo* of the charges on which his license was revoked. The registrant shall have the right at any such hearing to be represented by counsel; to call witnesses in his behalf and to cross-examine adverse witnesses.

Any person whose license has been revoked may apply to the board for reinstatement and re-license, and if the board is satisfied that such conduct will be discontinued may re-issue a license to such person.

§ 16. Proceedings on Revocation or Suspension of License.)

All proceedings relative to the revocation or suspension of a license, or relative to re-issuing a license which has been revoked shall only be held when a majority of the members of such board are present at such hearings, and throughout such hearings a stenographer shall be present and take down the testimony and preserve a record of all proceedings at the hearing. The complaint, notice of hearing, proof of service of notice of hearing, which proof shall show that such notice was personally served upon the party against whom the complaint is made, and all other documents in the nature of pleadings and written motions filed in the proceedings, and all written documents presented in evidence, and the transcript of testimony, and the findings of the board on such hearing, shall constitute the record of such proceedings. Either party to the action may require that any of the matters filed with the board be presented to the district court to whom the case is appealed *de novo*.

§ 17. Unlawful Practice of Veterinary Medicine — Misdemeanor—Penalty.) Any person who shall:

1. Practice veterinary medicine, surgery, or dentistry in this state without compliance with the provisions of this chapter; or
2. Willfully and falsely claim or pretend to have or hold a certificate of registration issued by the state board of veterinary medical examiners; or
3. Willfully and falsely, with intent to deceive the public, claim or pretend to be a graduate of, or to hold a degree

or diploma showing the satisfactory completion of a course in veterinary science in a school, college or university recognized by the American veterinary medical association;

shall be guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars and not more than five hundred dollars.

§ 18. Effect of Invalidity of Part of This Act.) If a court of competent jurisdiction shall adjudge to be invalid or unconstitutional any clause, sentence, paragraph, section or part of this Act, such judgment or decree shall not affect, impair, invalidate or nullify the remainder of this Act, but the effect thereof shall be confined to the clause, sentence, paragraph, section or part of this Act so adjudged to be invalid or unconstitutional.

§ 19. Repeal.) Chapter 36-02 of the North Dakota Century Code is hereby repealed.

Approved March 8, 1963.

CHAPTER 315

S. B. No. 156

(Becker, Chesrown, Kautzmann, Sinner)

LICENSING DETECTIVES

AN ACT

To provide for licensing and regulating detectives and detective agencies.

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

§ 1.) The private detective business, as used in this Act, shall consist of the following: The business of making, for hire or reward, an investigation or investigations for the purpose of obtaining information with reference to any of the following matters: Crime against the state or wrongs done or threatened; the habits, conduct, movements, whereabouts, associations, transactions, reputations or character of any person, firm or corporation; the credibility of witnesses or other persons; the location or recovery of lost or stolen property; the causes, origin or responsibility for fires or accidents or injuries to real or personal property; or concerning the truth or falsity of any statement or representation; or the business of securing, for hire or reward, evidence to be used before authorized

investigating committees, boards of award or arbitration, or in the trial of civil or criminal cases; or the business of furnishing for hire or reward guard or guards, or other persons to protect persons or property; or to prevent the theft or the unlawful taking of goods, wares and merchandise, or to prevent the misappropriation or concealment of goods, wares and merchandise, money, bonds, stocks, choses in action, notes or other valuable documents or papers, or the business of performing the service of such guard, or other person for any of said purposes.

A detective agency, as used in this Act, shall mean and include any person, firm or corporation engaged in the private detective business who employs one or more persons in conducting such business.

A private detective, as used in this Act, shall mean and include any person who, singly, conducts a private detective business without the assistance of any employee.

§ 2.) The provisions of this Act shall not apply to any detective or officer employed by or under any contract with the federal government, state or any county, city, town or village thereof, appointed, elected or contracted with, by due authority of law, while engaged in the performance of his official duties; nor to any state's attorney; nor to any attorneys or counselors at law in the regular practice of their profession; nor any person, firm or corporation whose business is the furnishing of information as to the business and financial standing and credit of persons, firms or corporation; nor to any person making any investigation of any matter in which such person or the person, firm or corporation by whom such person is solely employed is interested or involved, nor to any person making any investigation for any person, firm or corporation engaged in the business of transporting persons or property in interstate commerce, nor to any adjuster or investigator representing an insurance company or companies.

§ 3.) It shall be unlawful for any person to engage in or attempt to engage in the private detective business without a license as a private detective issued by the attorney general of the state.

§ 3a.) It shall be unlawful for any person, firm or corporation to conduct a detective agency without a license issued by the attorney general of the state.

§ 4.) The attorney general of the state shall exercise, but subject to the provisions of this Act, the following functions, powers and duties:

- (a) Conduct examinations to ascertain the qualifications and fitness of applicants for license and pass upon the qualifications of applicants.
- (b) Prescribe rules and regulations for a method of examination of applicants.
- (c) Prescribe forms for applications, bonds, licenses and other forms provided for by the within Act.
- (d) Establish a standard for surety companies qualified to execute bonds in conjunction with applicants, and approve surety companies by reference to compliance with said standard.
- (e) Conduct hearings on proceedings to suspend or revoke or refuse renewal of licenses of persons, firms or corporations applying therefor and to revoke or refuse to renew such licenses.
- (f) Formulate rules and regulations when required in any act to be administered.

§ 5.) A person is qualified to receive a license as a private detective:

- (a) Who is at least twenty-one years of age.
- (b) Who is a citizen of the United States.
- (c) Who establishes, to the satisfaction of the attorney general, that he is a person of honesty, truthfulness and integrity.
- (d) Who has not been convicted of a felony.
- (e) Who has filed with the attorney general a bond executed by the applicant and by a reputable surety company to be approved by the attorney general in the penal sum of two thousand five hundred dollars conditioned for the faithful and honest conduct of the business of such applicant, which bond shall be in the form prescribed by the attorney general and shall be taken in the name of the People of the state of North Dakota and shall provide that any person injured by the breach of the conditions of such bond may bring an action on said bond in the name of the People of the state of North Dakota for the use of such person so injured to recover legal damages suffered by reason of such breach; provided, however, that the aggregate liability of the surety for all such damages shall, in no event, exceed the sum of said bond. The surety on such bond shall have a right to cancel such bond upon giving 30 days' notice in writing to the attorney general and thereafter shall be relieved of liability for any breach of condition occurring after the effective date of said cancellation.

- (f) Who has passed a satisfactory examination conducted by the attorney general to determine his competency to receive a license as a private detective.

§ 6.) Every person who desires to obtain a license shall apply therefor to the attorney general in writing on applications prepared and furnished by said attorney general. Each application shall contain proof of the particular qualifications required of the applicant, shall be verified by the applicant under oath, and shall be accompanied by the required fee.

§ 7.) Whenever the provisions of this Act have been complied with, the attorney general shall issue a license as a private detective. This license shall show the name and the business location of each license holder, the date on which it is issued and the date of expiration, and shall have imprinted thereon the seal of the attorney general and such other matter as shall be prescribed by the attorney general.

Each applicant shall furnish to the attorney general, in conjunction with his application for a license or for a duplicate license or for a renewal, restoration or extension of a license a signed photograph of said applicant taken not more than three years prior to the date of said application, the dimensions of which shall be prescribed by the attorney general, which photograph shall be affixed to the license issued to such applicant.

It shall be the duty of each license holder to conspicuously display his license at all times in his place of business.

Notice in writing shall be given to the attorney general by such license holder of any change of principal business location whereupon the attorney general shall issue a new license for the unexpired period without charge. A change of business location without notification to the attorney general and without the issuance by him of a new license shall automatically cancel the license theretofore issued.

The attorney general shall prepare and deliver to each license holder an identification card, the dimensions of which shall be prescribed by the attorney general, which card shall contain the name and address of the license holder, the imprint of the seal of the attorney general, and shall certify that the person whose name appears thereon is a private detective and shall contain such additional matter as shall be prescribed by the attorney general.

§ 8.) If a loss of a license is shown to the satisfaction of the attorney general, a duplicate thereof shall be issued by the attorney general upon payment of the required fee.

§ 9.) Upon payment of the required fee, the attorney general shall grant, without examination, a license to conduct a detective agency to any of the following:

- (1) An individual who makes application therefor in writing, who is the holder of a license as a private detective issued by the attorney general under the provisions of this Act.
- (2) A partnership which makes application therefor in writing and all of the members of which hold licenses as private detectives issued by the attorney general under the provisions of this Act.
- (3) A corporation which is authorized by its articles of incorporation to engage in the business of conducting a detective agency, provided at least one officer or executive employee holds a license as a private detective issued by the attorney general under the provisions of this Act, and that every officer of said corporation actively participating in the detective business in this state holds such a license.

Every person, firm or corporation desiring to obtain such a license shall apply therefor to the attorney general in writing on applications prepared and furnished by said attorney general, which application shall contain proof of the particular qualifications required of the applicant, shall be verified by the applicant under oath, and shall be accompanied by the required fee.

The holder of such a license may employ, to assist him in the work of private detective and in the conduct of such business, as many persons as such license holder may deem necessary. Any person so in the employ of such license holder need not be the holder of a license as a private detective issued pursuant to the provisions of this Act.

§ 10.) Any person who violates any provision of this Act or any person who falsely states or represents that he has been or is a detective or employed by a detective agency shall be guilty of a misdemeanor or upon conviction thereof shall be punished by a fine of not less than twenty-five dollars nor more than five hundred dollars, or imprisonment in the county jail for a term of not to exceed six months, or both.

§ 11.) Every holder of a license as a private detective or of a license to conduct a detective agency who continues in active practice shall annually on or before the first day of January of each year renew his license and pay the required renewal fee. Every license which has not been renewed during the month of January in any year shall expire on the first day of February in that year. Every holder of a license as a

private detective or a license to conduct a detective agency whose license has expired may have the same restored immediately upon payment of all lapsed renewal fees and of the required restoration fee, provided, however, that not more than one year has elapsed since the date of expiration, provided, however, that nothing herein contained shall relieve any person from criminal prosecution for engaging in practice without a license as required in this Act.

§ 12.) The attorney general may either refuse to renew or may suspend or may revoke a license for any one or any combination of the following causes:

- (a) Fraud in obtaining a license.
- (b) Violation of any of the terms and provisions of this Act.
- (c) If the holder of any license or a member of any co-partnership or an officer of any corporation has been adjudged guilty of the commission of a crime involving moral turpitude.
- (d) If the license holder is found guilty of willful betrayal of a professional secret or secrets.
- (e) Upon the disqualification or insolvency of the surety of the license holder's bond unless such license holder files a new bond with sufficient surety within thirty days after notice from the attorney general.

§ 13.) The attorney general may, upon his own motion, and shall, upon the verified complaint in writing of any person setting forth facts which, if proven, would constitute grounds for refusal, suspension or revocation, as herein set forth, investigate the actions of any person holding or claiming to hold a license. The attorney general shall, before refusing to issue, suspending or revoking any license, at least ten days prior to the date set for the hearing notify in writing the applicant or holder of such license of any charges made and shall afford such accused person an opportunity to be heard in person or by counsel in reference thereto. Such written notice may be served by delivery of the same personally to the accused person, or by mailing the same by registered mail to the place of business last theretofore specified by the accused person in his last notification to the attorney general. At the time and place fixed in the notice, the attorney general shall proceed to hearing of the charges and both the accused person and the complainant shall be accorded ample opportunity to present in person or by counsel, such statements, testimony, evidence and argument as may be pertinent to the charges or to any defense thereto. The attorney general may continue such hearing from time to time.

§ 14.) The attorney general shall have power to subpoena and bring before it any person in this state and to take

testimony either orally or by deposition, or both, with the same fees and mileage and in the same manner as prescribed by law in judicial procedure in civil cases in courts of this state.

§ 15.) The district court of the county wherein the accused person resides shall have power to review any order of revocation or suspension and all questions of law and fact thereon provided application therefor is made by either party within thirty days from the date of service of such order.

§ 16.) The fee to be paid by an applicant for an examination to determine his fitness to receive a license as a private detective is twenty dollars.

The fee to be paid by an applicant for the issuance of a license as a private detective is fifty dollars.

The fee to be paid by an applicant for a license to conduct a detective agency is fifty dollars, provided, however, that if two or more of the members of a partnership or the officers of a corporation are the holders of licenses as private detectives, a license shall be issued to such partnership or corporation without additional charge.

The fee to be paid by an applicant for the renewal of a license to conduct a detective agency is twenty-five dollars, provided, however, that if two or more of the members of a partnership or the officers of a corporation are the holders of licenses as private detectives, a license shall be issued to such partnership or corporation without additional charge.

The fee to be paid by an applicant for the renewal of a license as a private detective is twenty-five dollars.

The fee to be paid for the restoration of an expired license is ten dollars.

The fee to be paid for the issuance of a duplicate license is ten dollars.

Approved March 7, 1963.

OFFICES AND OFFICERS

CHAPTER 316

S. B. No. 299

(Becker, Kjos, Van Horn)

VACANCIES IN COUNTY OFFICES

AN ACT

To amend and reenact section 44-02-04 of the North Dakota Century Code, relating to vacancies of county offices.

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

§ 1. Amendment.) Section 44-02-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

44-02-04. Vacancy in County Office — Appointment.) A vacancy in any county office, other than that of county commissioner, shall be filled by the board of county commissioners, with the exception that if a vacancy has occurred in the office of state's attorney by reason of his removal under section 44-11-01, the appointment shall be made by the board of county commissioners by and with the advice and consent of the governor. The board of county commissioners may declare a county office to be vacant whenever the office holder is unable to perform the duties of the office for six months or more. However, if within one year the office holder should become able to perform his duties the county commissioners may, for good cause shown, reinstate such office holder.

Approved March 16, 1963.

CHAPTER 317

H. B. No. 654
(Brown, Baldwin)

APPOINTMENT AND REMOVAL OF NOTARIES PUBLIC

AN ACT

To amend and reenact sections 44-06-01, 44-06-02, 44-06-04, and 44-06-13 of the North Dakota Century Code to provide for the appointment and removal of notaries public by the secretary of state instead of by the governor.

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

§ 1. Amendment.) Section 44-06-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

44-06-01. Appointment and Qualification of Notaries Public.) The secretary of state shall appoint in each county in this state from among the citizens of either sex one or more notaries public, who shall hold office for six years unless sooner removed by the secretary of state. Each notary shall have power and authority anywhere in the state to administer oaths and perform all other duties required of him by law. A person, to be eligible to such appointment, at the time of appointment, must have the qualifications of an elector as to age, residence, and citizenship.

§ 2. Amendment.) Section 44-06-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

44-06-02. Commission—Record—Fee—Notice.) The secretary of state shall issue a commission and duplicate thereof to each notary public appointed by the secretary of state. One of such copies shall be posted by such notary in a conspicuous place in his office. The secretary of state shall collect ten dollars for the issuance of such commission and duplicate. Such sum shall be paid into the state treasury and credited to the general fund. The secretary of state shall keep in his office a record of such appointments and the date of the expiration of the same, and shall notify each notary public by mail at least thirty days before the expiration of his term of the date upon which his commission will expire. Such notice shall be addressed to such notary public at his last known place of residence.

§ 3. Amendment.) Section 44-06-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

44-06-04. Filing of Oath, Bond, and Impression of Notarial Seal.) Each notary public, before entering upon the duties of such office, shall provide himself with an official seal bearing his name and shall:

1. Deposit an embossed impression of such seal, together with his oath and bond, in the office of the secretary of state; and
2. File his commission for record in the office of the clerk of the district court of the county of which he is a resident and deposit with such clerk an impression of his seal together with his official signature. The clerk shall record such information in a book to be kept for that purpose, and the person complying with the provisions of this subsection is a notary public during the time the commission is in force.

§ 4. Amendment.) Section 44-06-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

44-06-13. Acting as Notary When Disqualified — Penalty.) Any notary public who exercises the duties of his office with knowledge that his commission has expired or that he is disqualified otherwise, or who appends his official signature to any document when the parties thereto have not appeared before him, is guilty of a misdemeanor and shall be punished by a fine of one hundred dollars for each offense, and also shall be removed from office by the secretary of state.

Approved March 8, 1963.

PROPERTY

CHAPTER 318

S. B. No. 107
(Longmire)

NOTICE OF LEASE TERMINATION

AN ACT

To amend and reenact section 47-16-15 of the North Dakota Century Code, relating to notices of termination of leases of real property.

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

§ 1. **Amendment.**) Section 47-16-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

47-16-15. Notice of Termination of Lease.) A hiring of real property for a term not specified by the parties is deemed to be renewed as stated in section 47-16-06 at the end of the term implied by law, unless one of the parties gives notice to the other of his intention to terminate the same, at least as long before the expiration thereof as the term of the hiring itself, not exceeding thirty days; provided, however, that as to tenancies from month to month, either of the parties may terminate the same by giving at least thirty days' notice thereof at any time, and the rent shall be due and payable to and including the date of termination.

Approved March 2, 1963.

CHAPTER 319

S. B. No. 124

(Holand, Brooks, Chesrown, Wartner, Reichert)
(Ringsak, Longmire)

SALE OF JOINT TENANCY PROPERTY

AN ACT

To provide that a sale of real property executed by the joint tenants thereof pursuant to a contract for deed does not dissolve the joint tenant relationship.

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

§ 1. Sale of Real Property by Contract for Deed—Effect on Joint Tenants.) Any contract for deed for the sale of real property held in joint tenancy shall not have the effect of dissolving the joint tenancy relationship of the vendors if such contract for deed is executed by all the joint tenants unless otherwise specifically provided in the instrument.

Approved March 2, 1963.

PUBLIC BUILDINGS

CHAPTER 320

S. B. No. 179

(Van Horn, Ringsak, Wadeson, Sorlie, Bopp, Thompson)

LONG DISTANCE TELEPHONE SERVICE

AN ACT

To amend and reenact section 48-07-04 of the North Dakota Century Code, relating to long distance calls; to authorize the board of administration to establish "wide area telephone service" for state governmental offices; to require contributions from all departments; and to make an appropriation.

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

§ 1. **Amendment.)** Section 48-07-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

48-07-04. Long Distance Telephone Tolls—Wide Area Telephone Service.) The board of administration shall not be responsible for the collection or payment of tolls for long distance telephone calls to points outside of the state of North Dakota. Each office, department, agency, or institution, out of its appropriation for that purpose, shall pay tolls for out of state calls directly to the telephone company furnishing such service. The board of administration is hereby authorized to contract for "wide area telephone service" within the state of North Dakota for state government offices, agencies, and institutions at the state capital.

§ 2.) Each office, agency, or institution provided with "wide area telephone service" shall pay to the board of administration on July 1, 1963 a uniform percentage of the cost of "wide area telephone service" in proportion to the tolls that such office, agency, or institution paid to the telephone company during the calendar year of 1962 for tolls for long distance telephone calls to points within this state, and on July 1, 1964 shall pay a similar amount to the board of administration. The board of administration is authorized to expend funds received hereunder for the payment of "wide area telephone service" charges during the biennium beginning July 1, 1963 and ending June 30, 1965, and within thirty days after the end of such biennium any unexpended balance shall be transferred to the general fund.

Approved March 2, 1963.

PUBLIC UTILITIES

CHAPTER 321

H. B. No. 778
(Tweten)

RAILROAD CROSSING SIGNS

AN ACT

To amend and reenact section 49-11-16 of the North Dakota Century Code, relating to caution signs, specifications thereof and posting thereof at railroad crossings.

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

§ 1. **Amendment.)** Section 49-11-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

49-11-16. Caution Signs—Specifications—Posting at Crossings.) Every railroad corporation operating a line of road within this state must erect suitable signs of caution at each crossing of its road with a public highway, which signs shall be painted with black Roman or block letters on white background, said letters to be at least eight inches in length and proportionately broad. The height of such signs shall be approximately eight feet six inches above the level of the traveled roadway to the crossarms but this may be varied to provide the best view to persons approaching the crossing.

Approved March 18, 1963.

CHAPTER 322

S. B. No. 81

(Brooks, Redlin, Reichert, Erickson)

RATE ALTERATIONS AUTHORIZED

AN ACT

To create and enact section 49-15-10.1 of the North Dakota Century Code, permitting the public service commission of North Dakota to grant relief from the long and short haul, equidistant and volume statutes of North Dakota, upon application of a common carrier and repealing sections 49-02-03.1 and 49-02-20.

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

§ 1. 49-15-10.1.) The commission may, upon application by a common carrier, permit and prescribe the extent to which any such carrier may be relieved from the operation of the principles contained in sections 49-04-09, 49-15-09 and 49-15-10 of the North Dakota Century Code.

§ 2.) Sections 49-02-03.1 and 49-02-20 of the North Dakota Century Code are hereby repealed.

Approved March 14, 1963.

CHAPTER 323

S. B. No. 71

(Brooks, Ringsak, Wartner)

COMMON CARRIER CERTIFICATES

AN ACT

To amend and reenact sections 49-18-12, 49-18-16 and 49-18-26 of the North Dakota Century Code, relating to the granting and revocation of a temporary permit by the public service commission for service by a common carrier to specific points or territories.

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

§ 1. **Amendment.**) Section 49-18-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

49-18-12. Common Motor Carrier—Certificate of Public Convenience—Temporary Permit—Application.) No common motor carrier shall operate within this state without first

having obtained from the commission a certificate of public convenience and necessity. Application therefor shall be made upon forms to be prescribed by the commission. The commission shall make regulations for the filing of such application. The application must contain a financial statement, a list of equipment to be used, a description of the type of service offered, and the route and territory to be served. However, upon receipt of such an application and when there is an immediate and urgent need the commission shall have the authority to grant a temporary permit for service by a common motor carrier to a specified point or points or within a specified territory having no carrier service capable of meeting such need. Such temporary permit shall be granted without a hearing and, unless suspended or revoked for good cause, shall be valid for such time as the commission shall specify but for not more than an aggregate of one hundred and eighty days, and shall create no presumption that the corresponding certificate of public convenience and necessity shall be granted after the hearing on the application. Such temporary permit shall be transferable only after notice to all interested parties and approval by the commission, after opportunity for hearing.

§ 2. Amendment.) Section 49-18-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

49-18-16. Certificate—Temporary Permit—Amending—Revoking—Suspending.) The commission, at any time, for good cause, may suspend and, upon not less than five days' notice to the grantee of any certificate or temporary permit, and on opportunity to be heard, may revoke or amend any certificate or temporary permit.

§ 3. Amendment.) Section 49-18-26 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

49-18-26. Certificates—Permits—Duration—Transfer.) Certificates and permits issued to carriers by the commission under this chapter shall remain in force and effect subject to the regulatory and annual fee provisions of said chapter, and subject to all limitations and requirements thereof. Such certificate or permit shall be transferable only upon approval by the commission, after opportunity for hearing, giving notice to all interested parties; provided, however, that when there is an immediate and urgent need the commission may authorize the temporary transfer of a certificate, pending hearing. Such temporary transfer shall be granted without a hearing and, unless suspended or revoked for good cause, shall be valid for such time as the commission shall specify but

not for more than an aggregate of one hundred and eighty days, and shall create no presumption that the transfer of the certificate shall be granted after the hearing on the application.

Approved March 18, 1963.

CHAPTER 324

S. B. No. 207

(Nelson, Kee, Dahlund)

AGRICULTURAL CARRIER INSURANCE

AN ACT

Amending and reenacting sections 49-18-33 and 49-18-39, relating to the insurance requirements for agricultural carriers.

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

§ 1. **Amendment.**) Section 49-18-33 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

49-18-33. Insurance or Bond Required of Common, Agricultural or Contract Carrier—Liability of Insurer and Surety—Trial.) The commission in granting a certificate to any common motor carrier and in granting a permit to any agricultural or contract carrier shall require the owner or operator first to 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 this state in an amount to be designated by the commission. The conditions of such liability insurance or surety bond shall be such as to guaranty the payment of any loss or damage to property, or on account of the death of 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 the ultimate liability of such insurer or surety be disclosed or commented on to the jury. Upon final judgment the insurer or surety shall become liable directly 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 shall be kept in full force and effect, and upon the failure to do so the certificate or permit shall be revoked and canceled; provided that, a certifi-

cate of any company authorized to write liability or property damage insurance in the state, in a form approved by the commission and certifying that there is in effect a liability insurance policy required by this section, may be filed in lieu of the policy itself. The commission also shall require the owner or operator first to procure a surety bond, written by a company authorized to write such bond in this state, in an amount to be designated by the commission, to guaranty 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 business as such common motor carrier or contract carrier.

§ 2. Amendment.) Section 49-18-39 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

49-18-39. Agricultural Carriers—Exempt from Rate Schedule Requirements.) An agricultural carrier shall be exempt specifically from making any showing of public convenience and necessity and from any requirements as to any schedule of rates.

Approved March 18, 1963.

CHAPTER 325

S. B. No. 139

(Meidinger, Brooks, Sinner, Lips)

COAL PIPELINE CARRIERS

AN ACT

To amend and reenact subsection 10 of section 32-15-02, subsection 3 of section 49-02-01, and sections 49-19-01, 49-19-08, 49-19-11, 49-19-13, 49-19-15, 49-19-18, 49-19-19, and 49-19-20 of the North Dakota Century Code, relating to the exercise of eminent domain by and the regulation of coal pipeline carriers.

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

§ 1. Amendment.) Subsection 10 of section 32-15-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

10. Oil, gas, and coal pipelines and works and plants for supplying or conducting gas, oil, coal, heat, refrigeration, or power for the use of any county, city, or village, or the inhabitants thereof, together with lands, buildings, and all other improvements in or upon which to

erect, install, place, maintain, use, or operate pumps, stations, tanks, and other machinery or apparatus, and buildings, works, and plants for the purpose of generating, refining, regulating, compressing, transmitting, or distributing the same, or necessary for the proper development and control of such gas, oil, coal, heat, refrigeration, or power, either at the time of the taking of said property or for the future proper development and control thereof; and

§ 2. Amendment.) Subsection 3 of section 49-02-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. Pipeline companies for the transportation of gas, oil, coal, and water;

§ 3. Amendment.) Section 49-19-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

49-19-01. Definition of Common Pipeline Carriers.) Every person:

1. Owning, operating, or managing any pipeline or any part of any pipeline within this state for the transportation of crude petroleum, gas, or coal to or for the public for hire, or engaged in the business of transporting crude petroleum, gas, or coal by pipelines;
2. Owning, operating, managing, or participating in the ownership, operation, or management of, under lease, contract of purchase, agreement to buy or sell, or other agreement or arrangement of any kind whatsoever, any pipeline, or any part of any pipeline, for the transportation of crude petroleum, gas, or coal bought from others from any oil, gas, or coal field or place of production, to any distributing, refining, or marketing center or reshipping point;
3. Engaged in the business of producing, purchasing, transporting for hire or transporting for sale within this state of natural gas, which is transported through pipelines, or any part of a pipeline, the right-of-way for which is granted or secured under the provisions of this chapter or through the exercise of the right of eminent domain; or
4. Made a common carrier by or under the terms of a contract with or in pursuance of the laws of the United States,

is a common carrier and is subject to the provisions of this chapter as a common pipeline carrier.

§ 4. **Amendment.)** Section 49-19-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

49-19-08. Operation of Pipelines.) The operation of the pipelines to which this chapter applies, for the transportation of crude petroleum, coal, or gas in connection with the purchase or purchase and sale of such crude petroleum, coal, or gas, is a business in the conduct of which the public is interested, and as such is subject to regulation by law. The business of purchasing, or of purchasing and selling, crude petroleum, coal, or gas, which uses in connection with such business a pipeline of the class subject to this chapter to transport the crude petroleum, coal, or gas so bought or sold, shall not be conducted unless such pipeline so used in connection with such business is a common carrier within the purview of this chapter and subject to the jurisdiction herein conferred upon the commission. The attorney general shall enforce these provisions by injunction or other adequate remedy.

§ 5. **Amendment.)** Section 49-19-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

49-19-11. Pipeline Carrier Must Agree to Carry Without Discrimination.) A common pipeline carrier, in the acceptance of the provisions of this chapter, shall agree expressly that it, without discrimination, will accept, carry, or purchase, the oil, coal, or gas of the state or of any person not the owner of any pipeline, operating a lease or purchasing oil, coal, or gas, at prices and under regulations to be prescribed by the commission.

§ 6. **Amendment.)** Section 49-19-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

49-19-13. Hearings on Rates of Pipeline Carrier—Power of Commission.) The commission shall establish and enforce rates or charges and regulations for gathering, transporting, loading, and delivering crude petroleum, coal, or gas by common pipeline carriers in this state, and for the use of storage facilities necessarily incident to such transportation, and shall prescribe and enforce rules and regulations for the government and control of such common pipeline carriers in respect to their pipelines and receiving, transferring, and loading facilities. It shall exercise such power upon petition by any person showing substantial interest in the subject matter. No order establishing or prescribing rates, rules, and regulations shall be made except after hearing and notice to the common pipeline carrier affected.

§ 7. **Amendment.)** Section 49-19-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

49-19-15. Exchange of Tonnage by Common Carrier—Facilities To Be Maintained for Receipt and Delivery.) Every common pipeline carrier shall exchange crude petroleum tonnage, coal, or gas with each like common pipeline carrier. The commission shall have the power to require connections and facilities for the interchange of such tonnage, coal, or gas to be made at every locality reached by both pipelines whenever the necessity therefor exists and subject to such rates and regulations as may be made by the commission. Any such common pipeline carrier under like rules and regulations shall be required to install and maintain facilities for the receipt and delivery of crude petroleum, coal, or gas of patrons at all points on such pipeline. No carrier shall be required to receive or transport any crude petroleum, coal, or gas except such as may be marketable under rules and regulations to be prescribed by the commission.

§ 8. **Amendment.)** Section 49-19-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

49-19-18. Joint Action by Commissions to Regulate Interstate Commerce.) Where pipelines within the scope of this chapter are engaged in interstate transportation of oil, coal, or gas, the commission shall act jointly and in conjunction with the supervisory body which exercises jurisdiction over and control of such pipelines within any other state for the purpose of control, supervision, making joint rates for interstate transportation of oil, coal, or gas, or any other matters within the scope of this chapter.

§ 9. **Amendment.)** Section 49-19-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

49-19-19. Discrimination Between Shippers in Facilities Furnished, Service Rendered, and Rates Prohibited.) No common pipeline carrier shall discriminate between or against shippers in regard to facilities furnished, services rendered, or rates charged under the same or similar circumstances in the transportation of crude petroleum, coal, or gas, nor shall there be any discrimination in the transportation of crude petroleum, coal, or gas produced or purchased by itself directly or indirectly. In this connection the pipeline shall be considered as a shipper of the crude petroleum, coal, or gas produced or purchased by itself directly or indirectly and handled through its facilities. No such carrier in such operation,

directly or indirectly, shall charge, demand, collect, or receive from anyone a greater or less compensation for any service rendered than from another for a like contemporaneous service. This shall not limit the right of the commission to prescribe rates and regulations from or to some places different from other rates or regulations for transportation from or to other places as it may determine, nor shall any carrier be guilty of discrimination when obeying any order of the commission. Where there shall be offered for transportation more crude petroleum or coal than can be transported immediately, the same shall be apportioned equitably. Gas shall be taken pro rata on the basis of open flow production of the wells connected to the pipeline or lines and the delivery of each well shall be regulated accordingly. The commission may make and enforce general or specific regulations in this regard.

§ 10. Amendment.) Section 49-19-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

49-19-20. Duties of Pipeline Carriers.) Subject to the provisions of this chapter and the rules and regulations which may be prescribed by the commission, every common pipeline carrier shall receive and transport crude petroleum, coal, or gas delivered to it for transportation and shall receive and transport the same and perform its other duties with respect thereto without discrimination.

Approved March 18, 1963.

PUBLIC WELFARE

CHAPTER 326

S. B. No. 214

(Holand, Longmire, Reichert, Wartner, Chesrown, Brooks)

PUBLIC WELFARE BOARD POWERS AND DUTIES

AN ACT

To create and enact subsection 15 of section 50-06-06 of the North Dakota Century Code, relating to powers and duties of the public welfare board.

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

15. To provide social histories and other social services, psychological testing and related services, and psychiatric evaluations and treatment in so far as resources permit, when requested by a judge of the district court in juvenile and criminal cases, to be kept as confidential for the use of the court.

Approved March 4, 1963.

CHAPTER 327

H. B. No. 527

(Hofstrand, Haugland, Leet, Solberg)
(Neukircher, Lowe, Giffey)

(From LRC Study)

GENERAL ASSISTANCE CONTRACTS WITH FEDERAL GOVERNMENT

AN ACT

Authorizing the state public welfare board to execute contracts with the United States for the provision of general assistance to Indian citizens.

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

§ 1. General Assistance Contract Authorized.) The state public welfare board is authorized to execute contracts or agreements with the government of the United States or the appropriate agency thereof for the purpose of making available

the services of the state and counties of the state in providing general welfare assistance or poor relief in accordance with the provisions of chapters 50-01 and 50-02, to Indian citizens in all counties of the state in which no Indian reservation or portion thereof is located. Such contracts shall provide that any Indian citizen of this state having a residence on a reservation located in North Dakota or in any county of the state containing an Indian reservation or portion thereof and who has not acquired a residence for welfare purposes as required by the public welfare laws of this state in another county not containing an Indian reservation or portion thereof, shall be entitled to receive general assistance or poor relief from the county welfare board of a non-reservation county in which he is located upon the same basis and according to the same standards as general assistance or poor relief is provided for residents of the county. Such contract or agreement shall further provide that all cost of poor relief or general assistance payments for Indian citizens located in non-reservation counties who have not acquired residence for welfare purposes, plus such amounts as may be agreed upon as reasonable costs of administration, shall be paid as reimbursement to the non-reservation county providing the poor relief payments to the Indian citizens by the United States until such Indian citizens shall acquire a residence in the county for welfare purposes. Such contract may further provide that in the event an Indian citizen shall have lived and have been domiciled in such non-reservation county for a period of twenty-four months, but has not acquired residence for welfare purposes in such non-reservation county, the responsibility of the United States to reimburse such county for general assistance or poor relief payments and costs of administration shall cease, and the state public welfare board shall thereupon reimburse such non-reservation county for such costs until such time as such Indian citizen shall acquire residence for welfare purposes in the non-reservation county. The agreement or contract shall contain such other provisions as may in the discretion of the state public welfare board be necessary to properly administer such a program of general assistance or poor relief, and shall contain a provision for the termination of the contract or agreement upon reasonable notice by the state.

Approved February 9, 1963.

CHAPTER 328

H. B. No. 828

(Connolly, Fossum, Anderson (Richland), Anderson (McHenry))
(Poling, Powers, Haugland, Christensen (McLean), Wastvedt)

AID TO AGED, BLIND OR DISABLED PROGRAM

AN ACT

To create and enact chapter 50-24 of the North Dakota Century Code, establishing a combined program for assistance to the aged, blind, disabled, and medical assistance for the aged, prescribing powers of the state and county welfare boards in the administration thereof, setting standards of eligibility for assistance, providing for the financing of the program, and providing a penalty for fraudulent acts, and to repeal chapters 50-07, 50-08, 50-10A, and 50-23 of the North Dakota Century Code, relating to the individual programs for aid to the blind, old age assistance, aid to the permanently and totally disabled, and medical assistance for the aged.

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

§ 1.) Chapter 50-24 of the North Dakota Century Code is hereby created and enacted to read as follows:

AID TO AGED, BLIND OR DISABLED PROGRAM

50-24-01. Definitions.) In this chapter, unless the context or subject matter otherwise requires:

1. "State department" shall mean the public welfare board of North Dakota;
2. "County agency" shall mean the county welfare board of each of the several counties of the state;
3. "Applicant" shall mean a person who has applied for assistance under this chapter;
4. "Recipient" shall mean a person who has received assistance under the terms of this chapter;
5. "Assistance" shall mean money payments to or goods or services provided for recipients under the terms of this chapter;
6. "Assistance to the aged, blind or disabled" shall mean money payments to or in behalf of persons eligible under the provisions of this chapter and the services that will improve their well being and aid them in increasing their capability for self care, self support and self reliance; the term "assistance to the aged, blind or disabled" shall be understood and interpreted as a general term referring to "old age assistance", "aid to the

- blind", "aid to the permanently and totally disabled", and "medical assistance for the aged";
7. "Old age assistance" shall mean money payments to or goods and services provided to or in behalf of needy aged persons;
 8. "Aid to the blind" shall mean money payments to or goods and services to or in behalf of needy blind;
 9. "Aid to the permanently and totally disabled" shall mean money payments to or goods and services provided to or in behalf of needy persons determined to be permanently and totally disabled;
 10. "Medical assistance for the aged" shall mean payments to or in behalf of an aged person for medical care and incidental personal supplies;
 11. "Medical care" in the medical assistance for the aged program shall be defined as including but not limited to (1) inpatient hospital services; (2) skilled nursing home services; (3) physicians and other licensed practitioners services; (4) outpatient hospital or clinic services; (5) private duty nursing services; (6) dental services; (7) laboratory and X-ray services; (8) prescribed drugs; (9) diagnostic, screening and preventive services; and (10) authorized physical therapy. Should it be necessary to reduce expenditures for medical assistance hereunder due to lack of funds, the reduction is to be pro-rated among all of the dispensers of medical services equally.

50-24-02. Duties of State Department.) The state department shall:

1. Take such action and make such rules and regulations as may become necessary to entitle the state to receive aid from the federal government for assistance for the aged, blind, and disabled in North Dakota;
2. Supervise the administration of the assistance for the aged, blind or disabled throughout this state;
3. Take such action, give such directions, and promulgate such rules and regulations as may be necessary or desirable to carry out the provisions of this chapter, including the adoption and application of suitable standards and procedures to insure uniform and equitable treatment of all applicants;
4. Cooperate with the federal government in matters of mutual concern pertaining to assistance for the aged, blind or disabled, including the adoption of such methods of administration as are found by the federal

- government to be necessary for the efficient operation of the program;
5. Provide such qualified employees and representatives as may be necessary;
 6. Prescribe the form of and print for and supply to the county agencies blanks for applications, reports, and such other forms as it may deem necessary and advisable;
 7. Have authority to establish and maintain personnel standards on a merit basis for personnel employed by the state and county public assistance agencies not covered by a statewide merit system;
 8. Make such reports in such form and containing such information as the federal government, from time to time, may require;
 9. Comply with such provisions, rules and regulations as the federal government, from time to time, may find it necessary to require;
 10. Publish a biennial report and such interim reports as may be deemed necessary; and
 11. Administer all funds appropriated or made available to it for the purpose of carrying out the provisions of this chapter.

50-24-03. Eligibility.) Assistance shall be granted under this chapter to any person who shall meet the following requirements:

1. Has resided ten years in the United States, or is a citizen of the United States.
2. Has not sufficient income or other resources to provide a reasonable subsistence compatible with decency and health.
3. Has no child or other relative of sufficient financial ability to support him who is responsible under the law for his support, provided, however, that if such child or other relative refused or neglects to provide necessary assistance, such refusal or neglect shall not make such applicant ineligible for assistance to the aged, blind or disabled.
4. Has not at any time before or after making application for assistance to the aged, blind or disabled made an assignment or transfer of property for the purpose of rendering himself eligible for assistance under this plan.
5. Is not a patient in any medical institution as a result of a diagnosis of tuberculosis or psychosis with respect to any period after the recipient has been a patient in

- a medical institution as a result of such diagnosis for forty-two days.
6. Is not an inmate of, nor being maintained by any municipal, state or national institution at the time of receiving assistance; provided, however, that the state department shall have authority to make payments as provided in this chapter to residents of such public institutions as are approved by the state department.
 7. Applicants for old age assistance shall in addition have:
 - a. Attained the age of sixty-five years;
 - b. Resided in North Dakota continuously for one year immediately preceding application for assistance except that in order to establish eligibility for assistance in North Dakota, any person who is eligible to receive or is receiving assistance from another state will be required to reside in North Dakota for the same period of time as a person moving from North Dakota to such other state would be required to reside, under such other state's laws or regulations, in order to establish eligibility under such other state's assistance program. A county in which an applicant has residence for poor relief purposes will be financially responsible for the county's share of any assistance provided under this Act.
 8. Or applicants for aid to the blind shall in addition have:
 - a. No vision or vision with correcting glasses is so defective as to prevent the performance of ordinary activities for which eyesight is essential.
 - b. Resided in North Dakota continuously for one year immediately preceding application for assistance except that in order to establish eligibility for assistance in North Dakota, any person who is eligible to receive or is receiving assistance from another state will be required to reside in North Dakota for the same period of time as a person moving from North Dakota to such other state would be required to reside, under such other state's laws or regulations, in order to establish eligibility under such other state's assistance program. A county in which an applicant has residence for poor relief purposes will be financially responsible for the county's share of any assistance provided under this Act.
 9. Or applicants for aid to the permanently and totally disabled shall in addition have:
 - a. Attained the age of 18 years.
 - b. Been determined in the manner prescribed in federal regulations to be permanently and totally disabled.

- c. Resided in North Dakota continuously for one year immediately preceding application for assistance except that in order to establish eligibility for assistance in North Dakota, any person who is eligible to receive or is receiving assistance from another state will be required to reside in North Dakota for the same period of time as a person moving from North Dakota to such other state would be required to reside, under such other state's laws or regulations, in order to establish eligibility under such other state's assistance program. A county in which an applicant has residence for poor relief purposes will be financially responsible for the county's share of any assistance provided under this Act.
10. Or applicants for medical assistance for the aged shall in addition have:
 - a. Attained the age of 65 years.
 - b. Is residing in the state of North Dakota, or be a legal resident of North Dakota though temporarily residing outside of the state of North Dakota.
 - c. Has paid or obligated himself to pay in the amount of fifty dollars for medical care during the 12 month period prior to making application.

50-24-03.1. How Residence in State Lost.) If any person not receiving public assistance but having legal residence in this state for poor relief purposes voluntarily moves from this state, his residence for public assistance purposes is lost, destroyed or defeated in the same manner and upon like conditions as the residence of a person in that state voluntarily moved to this state would be lost, destroyed or defeated.

A legal resident of this state receiving public assistance who voluntarily moves from this state continues to be eligible for public assistance on a residence basis from this state until he becomes eligible in the state to which he moves, unless the other state does not have a public assistance program for which he is eligible. In this event, eligibility continues for one year after he moves from this state. A person not a legal resident receiving public assistance from this state loses eligibility for public assistance upon voluntarily moving from this state.

50-24-04. Medical Assistance for Aged—Purpose—Certification—Choice of Services—Payment.) The purpose of medical assistance for the aged is to provide for a program of medical assistance to the aged for those applicants who have incurred burdensome medical expenses and who meet the standards and qualifications set forth in this chapter. Minor medical expenses are not intended to be covered under the program.

Medical services shall be rendered upon certification by the attending licensed practitioner that medical service is required. Services of a medical institution shall be rendered only after referral by a licensed physician and certification by him that the services of the medical institution are required for the medical treatment of the individual, except that referral shall not be necessary in case of an emergency.

The applicant shall be entitled to free choice of those physicians, hospitals, nursing homes, and other licensed dispensers of medical services. The state department may negotiate to pay dispensers of medical services according to the usual and customary fees being charged in the local community for services rendered to persons of comparable economic status. Should the department contract with private agencies or carriers for all or a part of such medical services, it may make payment direct to such agencies or carriers.

50-24-05. Application for Assistance.) An application for assistance to the aged, blind, or disabled under the provisions of this chapter shall be made to the county agency of the county in which the applicant resides. It shall be in writing or reduced to writing in the manner and upon the form prescribed by the state department and shall be verified by the oath of the applicant. The application shall contain:

1. A statement of the amount of property, both personal and real, which the applicant owns or in which he has an interest;
2. A statement of all the income which the applicant has at the time of the filing of the application; and
3. Such other information as may be prescribed by the state department.

50-24-06. Investigations of Applications.) Whenever a county agency receives an application for assistance to the aged, blind, or disabled, an investigation of the circumstances of the applicant shall be made to ascertain:

1. The facts supporting the application; and
2. Such other information as may be required by the state department. If the county agency believes that assistance has become necessary by reason of the action of any person contrary to law, the agency shall advise the state's attorney of the fact and shall give to him the name or names of the offending person or persons together with their last known address.

50-24-07. Power of State and County Agencies on Investigation.) The county agency and state department and the officers and authorized employees thereof authorized to make

investigations under the provisions of this chapter shall have the power to:

1. Conduct examinations;
2. Require the attendance of witnesses and the production of books, records, and papers; and
3. Make application to the district court of the county to compel the attendance of witnesses and the production of books, records, and papers. The officers and employees designated by the county agency and the state department also may administer oaths and affirmations.

50-24-08. Blind Aid—Examination.) No application for aid to the blind under the provisions of this chapter shall be approved until the applicant has been examined by an ophthalmologist, physician skilled in the diseases of the eye, or optometrist designated or approved by the state department to make examinations. The examining ophthalmologist, physician skilled in the diseases of the eye, or optometrist shall certify in writing, upon forms provided by the state department, the findings of the examination. A recipient of aid to the blind under the provisions of this chapter shall submit to a re-examination as to his eyesight when required to do so by the state department. He also shall furnish any information required by the state department.

50-24-09. Supplementary Services — When Provided.) On the basis of the findings of the examination made by the ophthalmologist, or physician skilled in the diseases of the eye, supplementary services may be provided by the state department to any applicant or recipient of assistance under the age of sixty-five who is in need of treatment either to prevent blindness or to restore his eyesight whether or not he is blind as defined in subsection 8a of section 50-24-03, if he otherwise is qualified for assistance under this chapter. The supplementary services may include necessary traveling and other expenses to receive treatment from a hospital or clinic designated by the state department.

50-24-10. Denial or Withdrawal of Assistance When Treatment Refused.) Assistance to the blind or totally and permanently disabled may be denied to, or having been granted, may be withdrawn from any person who refuses medical, surgical, or other treatment when such person, or his eyesight, may be restored partially or wholly by such treatment, and a certificate in writing to that effect is made by the examining ophthalmologist or physician, as the case may be. Any person who is denied assistance or whose assistance is withdrawn upon this ground may appeal to the state department in the manner provided in sections 50-24-18 and 50-24-19.

50-24-11. Findings of County Agency on Investigation.)

The county agency, upon completion of the investigation of an application for assistance to the aged, blind, or disabled shall determine in accordance with its findings whether or not the applicant is eligible for assistance and shall make a written order, in duplicate, to the effect that the application be allowed or rejected. A copy of the findings and order of the county agency shall be transmitted forthwith to the state department. If the county agency finds that the application should be allowed, it shall, on applications except those for medical assistance for the aged, attach to its order a certificate of eligibility setting forth the amount of monthly assistance which it finds the applicant is entitled to receive and the date upon which assistance is to begin.

50-24-12. Amount of Aid — Determination.) The amount of assistance to which any person shall be entitled under the provisions of this chapter shall be determined with due regard to the following:

1. The resources of the individual, including any income and property that he may have and any support he may receive from other sources;
2. The necessary expenditures of the individual; and
3. The rules, regulations, and directions which the state department may find necessary to prescribe.

Such amount shall be sufficient, when added to all other income and resources of the recipient, to provide such person with a reasonable subsistence compatible with decency and health.

In the case of applicants for old age assistance, the county agency in determining need shall disregard not more than the first ten dollars of earned income plus one-half of the next forty dollars of earned income per month.

In the case of applicants for aid to the blind, the county agency in determining need shall disregard the first eighty-five dollars of earned income plus one-half of the earned income in excess of this amount. In addition, the county agency shall disregard such amounts of other income and resources for an individual who has a plan for achieving self support as will be necessary to fulfill such plan, provided that the state department approves such plan and that the period of exemption shall not exceed a total of twelve months for any individual.

In the case of medical assistance for the aged, the county agency in determining need shall disregard not more than the first twelve hundred dollars of yearly income for an un-

married applicant or not more than the first eighteen hundred dollars for a married applicant and spouse living together. Such income shall not include the shelter value of a residence occupied by the applicant nor the value of gifts or services contributed in kind.

50-24-13. Ownership of Property—Transfer in Trust.) The ownership of real or personal property by an applicant for assistance to the aged, blind, or disabled or by the spouse of such applicant, either individually or jointly, or of insurance on the life of the applicant shall not preclude the granting of such assistance if the applicant is without funds for his support. But if the applicant for old age assistance, aid to the blind, or aid to the permanently and totally disabled is the owner of real property, other than a homestead, of a life insurance policy having a cash surrender value of more than three hundred dollars, or of personal property other than household goods, wearing apparel and personal effects including money, of a value in excess of three hundred dollars, then such applicant, as a condition to the grant of assistance, shall be required to transfer such property in trust by appropriate instrument, except property selected by the applicant having a value of not more than three hundred dollars, as security for such assistance payments as the applicant thereafter may receive, unless the Congress of the United States shall enact legislation prohibiting the taking of security on other real or personal property belonging to the applicant.

In determining the need for medical assistance for the aged, the state department shall disregard such resources as are necessary to meet the subsistence needs of the applicant for himself and his legal dependents. The amount of resources so disregarded shall not exceed twenty-five hundred dollars in net value of personal property of which not more than five hundred dollars shall be in cash or maturity value of stocks or bonds for an applicant who is unmarried or not living with the spouse nor more than one thousand dollars for a married applicant and spouse living together. The limit in net value of personal property shall not include household goods, wearing apparel, or personal effects; nor shall the resources in real property other than the home exceed twenty-five hundred dollars in current net value for a married or unmarried applicant.

50-24-14. Life Insurance Policy—Agreement for Payment of Premiums.) If an applicant for old age assistance, aid to the blind, or aid to the permanently and totally disabled, under the provisions of this chapter, has a policy of insurance or a fraternal beneficiary certificate on his life and if such policy or beneficiary certificate has a surrender value less than that

stated or has no cash surrender value at all, the county agency may recommend and the state department may authorize premiums upon such insurance policy or beneficiary certificate to be paid out of assistance payments. Such agencies may enter into such arrangements with the insured as shall protect the interests of the insured and the interests of the state and assure repayment to the state, upon the death of the insured, of not less than the premium payments so made after funeral expenses of not to exceed two hundred and fifty dollars have been paid.

50-24-15. Homestead of Applicant for Assistance Not Encumbered.) An applicant for assistance to the aged, blind or disabled under the provisions of this chapter in no case shall be required to transfer a homestead occupied by him as such unless he or she desires to do so. A recipient of old age assistance, aid to the blind, or aid to the permanently and totally disabled shall not be permitted to encumber or convey such homestead without the approval in writing of the state department. When an application for old age assistance, aid to the blind or aid to the permanently and totally disabled is granted and it appears that the applicant occupies a homestead, which he owns, the state department shall cause to be recorded, in the office of the register of deeds of the county in which such homestead is located, a statement in writing to the effect that the owner of such homestead is receiving or is about to receive assistance payments. Such written statement shall be signed by the executive director of the state department. After the recording of such statement, any instrument of conveyance or encumbrance executed by such applicant for assistance without the approval of the state department shall be null and void. No fee shall be charged by the register of deeds for recording such statement.

50-24-16. Rejection of Application—Notice of—Contents.) If the county agency upon investigation of an application for assistance to the aged, blind, or disabled, finds that the application should be rejected, it forthwith shall notify the applicant in writing of its decision. The notice to the applicant also shall state that he may appeal from the findings of the county agency to the state department within thirty days from the receipt by the applicant of such written notice and that such appeal may be taken by filing a written notice of appeal with the county agency or state department.

50-24-17. Power of State Department to Change Determination of County Agency.) The state department shall have the following powers in regard to the reconsideration of the change in the amount of assistance to the aged, blind,

or disabled that has been granted under the provision of this chapter:

1. To approve, modify, or reverse the findings of the county agency;
2. To return the application for assistance to the county agency for such further action or proceedings as the state department may direct;
3. To conduct a hearing or make or cause a further investigation to be made;
4. To make such final disposition of an application for assistance as in its judgment the ends of justice require;
5. On its own motion, to reconsider any or all assistance grants made;
6. To consider any application upon which a decision has not been made by the county agency within a reasonable time;
7. To grant assistance where it has been refused or to change the amount of assistance, if after further investigation it determines that the ends of justice so require; and
8. To withdraw assistance if it is found that the recipient's circumstances have altered sufficiently to warrant such action.

Whenever assistance is withdrawn, revoked, suspended, or in any way changed, the recipient shall be notified in writing and thereupon shall have the right of a fair hearing before the state department in the same manner as a hearing is afforded upon an appeal from the decision of the county agency rejecting an application for assistance.

50-24-18. Appeal to State Department—When Taken.) An applicant for assistance to the aged, blind, or disabled under the provisions of this chapter may appeal to the state department if:

1. An application is not acted upon by the county agency within a reasonable time after it is filed;
2. The application is denied; or
3. The applicant deems the allowance insufficient.

The appeal shall be taken by filing a written notice with the county agency or state department.

50-24-19. Appeal—How Heard.) Where an appeal is taken under the provisions of section 50-24-16, the state department shall give the applicant an opportunity for a fair hearing. The state department may designate some person to act as referee

and take and certify evidence to the state department. When an appeal is heard before a member or members of the state department, or a referee designated by such department, such person or persons shall make findings in writing and shall state the reason why the application should not be granted or rejected or changed in amount, as the case may be, and report such findings to the state department, together with all the evidence upon which the same is based. The state department may accept and approve such findings or reverse or modify the same or hear the matter anew or make such disposition of the appeal as the facts and the law warrant. If the decision of the department results in a denial of assistance or in a denial of the claim of the applicant in whole or in part, such appellant upon written demand shall be afforded a fair hearing before the department. The decision of the state department shall be final, and binding upon the county agency.

50-24-20. County Share of Assistance.) Each county in this state shall reimburse the state department for amounts expended for assistance to the aged, blind, or disabled in such county in excess of the amount provided by the federal government, in the following percentages:

1. Aid to the permanently and totally disabled—fifteen percent;
2. Old age assistance—ten percent;
3. Medical assistance for the aged—ten percent;
4. Aid to the blind—none.

50-24-21. How County's Share Paid.) The state department shall keep records and accounts in relation to the expenditures for each program listed in section 50-24-20 in each county in North Dakota. Claims for reimbursements shall be presented by the state department to the board of county commissioners at the end of each calendar month. The executive director of the state department shall certify to each county the total amount paid for each program to or on behalf of persons in that county, and the county's share of such payments. The amount so certified shall be paid to the treasurer of the state department from the county treasury upon the audit and approval of the county auditor and the chairman for the board of county commissioners.

50-24-22. County Appropriation.) The board of county commissioners in each county in this state shall appropriate annually such sum as, in its judgment, may be needed to carry out the provisions of this chapter, including expenses of administration based upon a budget prepared by the county welfare board, after taking into account state aid, and shall include in the tax levy for such county the sum or sums

appropriated for that purpose. Should the sum so appropriated, however, be expended or exhausted during the year and for the purpose for which it was appropriated, additional sums shall be appropriated by the board of county commissioners.

50-24-23. When County's Share of Fund Furnished by State.) If the financial condition of any county is such that it cannot make an appropriation or levy a tax for assistance to the aged, blind, or disabled, or cannot legally issue warrants in an amount sufficient to provide the necessary funds to comply with the provisions of this chapter, the board of county commissioners shall report such fact to the state department. The state department shall make, or cause to be made, a complete investigation of the financial condition of such county. If such investigation shows that the county cannot appropriate funds or legally issue warrants or levy a tax in an amount sufficient to provide the county's share of funds needed for the purposes of this chapter in that county, the state department may provide either as a grant or as a loan that county's share of funds for the purposes of this chapter or so much thereof as may be necessary, from state funds appropriated to the state department for the purposes of this chapter.

50-24-24. Assistance to Transients—How Paid.) The state department may use funds appropriated to the department for old age assistance and aid to the permanently and totally disabled to pay the entire cost of such grants, not paid by the federal government, to those persons who meet the following requirements:

1. Whose residence cannot be determined to be in any county in North Dakota or in any other state in the United States; and
2. Who have resided in North Dakota for one year and who meet all the other requirements for such assistance.

50-24-25. Indians—When State Funds Used.) Any county in which an Indian reservation is located may apply to the state department for payment, out of state funds, of the entire amount of aid paid toward Indians residing in the county and on the Indian reservation. The state department shall make, or cause to be made, a complete investigation of the financial condition of any county so applying, and if the investigation shows that the financial condition of the county is such that it would be inequitable to ask the county to contribute its share or the amount necessary to provide aid to such Indians the state department may use funds appropriated to the public welfare fund for aid to aged, blind, or disabled persons to pay

such part of the costs of aid to such ward Indians as is not paid by the federal government.

50-24-26. Assistance to the Aged, Blind, or Disabled Funds.)

All moneys received by the state department from the state of North Dakota, from any of the counties within the state, from the United States under the provisions of the Social Security Act, or from any other source, shall be placed in the appropriate fund for assistance to aged, blind, or disabled, in accordance with the purpose for which received. The treasurer of the state department shall receive all such moneys as the same may be paid to him and shall deposit the same in the appropriate fund. The treasurer shall issue in triplicate receipts for all moneys received by him for each fund. Such receipts shall show the dates upon and the sources from which the moneys were received, and the original shall be delivered forthwith to the person, officer, or agency making the payment, one copy to the executive director of the state department, and the other copy shall be retained by the treasurer.

50-24-27. Disbursements for Assistance to the Aged, Blind, or Disabled.) Disbursements for assistance shall be made only for the purposes of this chapter which shall include:

1. Payments to or on behalf of recipients of assistance;
2. Expenses of administration of the assistance to the aged, blind, or disabled plan in this state.

All disbursements shall be made only by checks or warrants drawn on the appropriate assistance fund. Such checks or warrants shall be drawn only by persons who are duly authorized so to do by resolution of the state department.

50-24-28. Person Handling Money to Furnish Bond.) The treasurer of the state department and all persons having any control over or who handle any of the moneys for the purposes of this chapter shall be bonded in such sum as the state department by resolution shall require.

50-24-29. Recovery of Assistance to the Aged, Blind, or Disabled from Person Liable for Support.) If, at any time during the continuance of any allowance granted under the provisions of this chapter, it is ascertained that anyone who is liable for support and care of a recipient of assistance to the aged, blind, or disabled is able to afford the necessary support or care of such recipient but fails and refuses to do so, there shall exist a cause of action for such assistance against such person. The action shall be brought by the state's attorney of the county in the name of the county in which

such assistance was granted and against the person liable for the support or care of the recipient of the assistance. The action shall be brought for the recovery of the amount of money with interest thereon paid to such recipient, together with the costs and disbursements of the action.

50-24-30. Authority to Compromise and Settle.) The state department shall have the authority to enter the appearance of the state in any proceeding affecting property upon which the state may have a claim for old age assistance, aid to the blind, or aid to the permanently and totally disabled to prosecute and defend in any such proceedings, to institute probate proceedings as a creditor to deceased persons, and either in the course of or in the absence of and apart from any action or proceeding enter into any stipulation, compromise, settlement or other agreement or arrangement in respect to such claim as may seem wise, and to execute any such stipulation, modification, quit claims, releases, partial releases, discharges, extensions, agreements, satisfactions, partial satisfactions or subordination or other contracts or stipulation or agreement which the interest of the parties or the circumstances of the case may make advisable.

50-24-31. Confidential Character of Records—Penalty.) All applications, information, and records concerning any applicant or recipient of assistance to aged, blind, or disabled under the provisions of this chapter shall be confidential and shall not be disclosed nor used for any purpose not directly connected with the administration of assistance to the aged, blind, or disabled; except that upon the personal written request of any elected public official the records of the names, addresses, and amounts of assistance shall be open for his inspection by the state or county welfare board. Such information shall not be used for any political or commercial purpose or made public in any manner. Any person using any application, information, or records concerning any applicant or recipient beyond his official capacity or for purposes not directly connected with the administration of assistance to the aged, blind, or disabled is guilty of a misdemeanor.

50-24-32. Recipient to Notify the State Department of Receipt of Property or Income—Assistance Altered or Canceled.) If, at any time during the continuation of assistance to the aged, blind, or disabled under the provisions of this chapter, the recipient becomes the owner of any property or income in excess of the amount stated in the application provided in section 50-24-05, he immediately shall notify the county agency of the receipt of possession of such property or income and the county agency, after investigation, either

may cancel the assistance or alter the amount thereof in accordance with the circumstances. Any assistance paid after the recipient has come into possession of such property or income, and in excess of his needs, shall be recoverable by the state from the estate of the recipient.

50-24-33. Recovery from Estate of Recipient of Assistance to the Aged, Blind or Disabled.) On the death of any recipient of assistance to the aged, blind, or disabled under the provisions of this chapter the total amount of assistance paid under this chapter shall be allowed as a preferred claim against the estate of such person in favor of the state, after funeral expenses for recipient and his or her spouse, not to exceed in each individual case two hundred and fifty dollars, and such expenses of the last illness of recipient and spouse as are authorized or paid by the county agency, have been paid, and after the expenses of administering the estate, including the attorney's fees approved by the court, have been paid. No claim shall be enforced against the following:

1. Real estate of a recipient for the support, maintenance or comfort of the surviving spouse or a dependent;
2. Personal property necessary for the support, maintenance, or comfort of the surviving spouse or a dependent;
3. Personal effects, ornaments, or keepsakes of the deceased, not exceeding in value two hundred dollars.

50-24-34. Division of Moneys Recovered.) Any amounts recovered under the provisions of sections 50-24-27 or 50-24-29 for assistance to the aged, blind, or disabled paid under the provisions of this chapter shall be deposited promptly in the appropriate fund and credited respectively to the federal government, the state, and the county in proportion to the amounts in which the assistance payments represented funds contributed by the federal government, state, and county.

50-24-35. Guardian Appointed—Payments to Guardian.) Whenever a guardian shall have been appointed for any recipient by a court of competent jurisdiction, the payment of aid shall be made to such legal guardian. The legal guardian shall file a report at the end of each calendar year with the county agency, showing the disbursement of the money received by him for the benefit of such recipient.

50-24-36. Aid Not Assignable—Cashing Checks After Death of Payee.) Aid granted under this chapter shall not be transferable or assignable in law or equity, and the money paid or payable under this chapter shall not be subject to execution, attachment, garnishment, or other legal process or to the operation of any bankruptcy or insolvency law. Aid checks

delivered to a recipient before his death but not endorsed by such recipient may be endorsed and paid, upon approval of the county agency under rules and procedures adopted by the state department.

50-24-37. No Fees To Be Charged.) No person shall make any charge nor receive any fee from the applicant, recipient, or any other person for representing an applicant or recipient in any proceedings under the provisions of this chapter, or with respect to any application for aid.

50-24-38. Statute of Limitations Shall Not Run.) The statute of limitations shall not run against claims of the state of North Dakota for repayment of assistance to the aged, blind, or disabled.

50-24-39. Fraudulent Acts—Penalty.) Whoever knowingly obtains, or attempts to obtain, or aids or abets another, by means of a willfully false statement or representation, or by impersonation, or by other fraudulent device, assistance to the aged, blind, or disabled to which he is not entitled, or assistance greater than that to which he is justly entitled, is guilty of a misdemeanor and shall be punished by a fine of not more than five hundred dollars, or by imprisonment in the county jail for not more than twelve months, or by both such fine and imprisonment. In assessing the penalty, the court shall take into consideration, along with other factors, the amount of money fraudulently received.

50-24-40. Limitations of Chapter.) All assistance to the aged, blind or disabled granted under this chapter shall be deemed to be granted and to be held subject to the provisions of any amending or repealing Act that hereafter may be passed. No recipient shall have any claim for compensation or otherwise because his assistance is affected in any way by any amending or repealing Act.

50-24-41. Suspension of Chapter.) In the event that any provision or provisions of this chapter shall be in conflict with Title XVI—Grants to States for Aid to the Aged, Blind, or Disabled or for such aid and medical assistance for the aged being amendments of Title I of the Social Security Act, being Public Law 87-543, 87th Congress, H.R. 10606, dated July 25, 1962, providing for a state plan for the aged, blind, and disabled; under which, if this chapter were not in conflict, the state would be entitled to receive contributions from the United States for the combined state plan for the aged, blind, and disabled, such provision or provisions of this chapter so in conflict with such law of the United States shall be considered as suspended and noneffective until fifty days after

convening the legislative assembly in the year 1965 so as to enable the state to qualify and participate in such contributions for the aged, blind, and disabled from the United States.

***§ 2. Repeal.)** Chapters 50-07, 50-08, 50-10A, and 50-23 of the North Dakota Century Code are hereby repealed.

Approved March 14, 1963.

***Note:** Sections 50-07-21, 50-07-22, and 50-10A-20 were amended by sections 18, 19, and 20 of chapter 200 of the 1963 Session Laws.

SALES AND EXCHANGE

CHAPTER 329

H. B. No. 780

(Goebel, Schaffer, Stallman, Anderson (McHenry))
(Tough, Shablow, Bader)

AUTO AND IMPLEMENT DEALERS' FRANCHISE CONTRACTS

AN ACT

To amend and reenact sections 51-07-01, 51-07-02 and 51-07-03 of the North Dakota Century Code Supplement, relating to discontinuance of contracts, determining prices and liability for cancellation.

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

§ 1. **Amendment.)** Section 51-07-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

51-07-01. Retail Implement or Car Dealer May Recover Price of Articles Upon Discontinuance of Contract by Wholesaler or Retail Dealer.) Whenever any person, firm, or corporation engaged in the business of selling and retailing farm implements and repair parts for farm implements, or in the business of selling and retailing automobiles, or trucks, or repair parts for automobiles or trucks, enters into a written contract evidenced by franchised agreement whereby such retailer agrees to maintain a stock of parts or complete or whole machines, or attachments with any wholesaler, manufacturer, or distributor of farm implements or machinery or repair parts therefor, or automobiles or trucks or repair parts therefor, and either such wholesaler, manufacturer, or distributor or the retailer desires to cancel or discontinue the contract, such wholesaler, manufacturer, or distributor, shall pay to such retailer unless the retailer should desire to keep such merchandise, a sum equal to one hundred percent of the net cost of all current unused complete farm implements, machinery and attachments and automobiles and trucks including transportation charges which have been paid by such retailer, and eighty-five percent of the current net prices on repair parts listed in current price list or catalogue which parts had previously been purchased from such wholesaler, manufacturer or distributor, and held by such retailer on the date of the cancellation or discontinuance of such contract.

The wholesaler, manufacturer or distributor shall also pay such retailer a sum equal to 5 percent of the current net price of all parts returned for the handling, packing and loading of such parts back to the wholesaler, manufacturer or distributor. Upon the payment of the sum equal to one hundred percent of the net cost of such farm implements, machinery, and attachments and automobiles and trucks, plus transportation charges and eighty-five percent of the current net prices on repair parts, plus five percent handling and loading costs on repair parts only, plus freight charges which have been paid by the retailer, or automobiles or trucks, plus freight charges, or repair parts therefor, plus 5 percent handling and loading costs on repair parts only, the title to such farm implements, farm machinery, and repair parts, or automobiles, or trucks or parts therefor, shall pass to the manufacturer, wholesaler, or distributor making such payment, and such manufacturer, wholesaler, or distributor shall be entitled to the possession of such farm implements or automobiles or trucks, or repair parts therefor.

The provisions of this section relating to a retailer's right to cancel or discontinue a contract and receive payment for machines, attachments, and parts returned shall apply to all contracts now in effect which have no expiration date and are a continuing contract, and all other contracts entered into or renewed after July 1st, nineteen hundred and sixty-three. Any contract in force and effect on July 1st, nineteen hundred and sixty-three, which by its own terms will terminate on a date subsequent thereto shall be governed by the law as it existed prior to the nineteen hundred and sixty-three amendment.

§ 2. Amendment.) Section 51-07-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

51-07-02. Prices of Implements, Machinery, Automobiles and Parts—How Determined.) The prices of farm implements, machinery, and repair parts therefor, and of automobiles, trucks, and repair parts therefor, required to be paid to any retail dealer as provided in section 51-07-01, shall be determined by taking one hundred percent of the net cost on farm implements, machinery, and attachments, automobiles and trucks, and eighty-five percent of the current net price of repair parts therefor as shown upon the manufacturer's, wholesaler's or distributor's price lists or catalogues in effect at the time such contract is canceled or discontinued.

§ 3. Amendment.) Section 51-07-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

51-07-03. Failure to Pay Sum Specified on Cancellation of Contract—Liability.) In the event that any manufacturer, wholesaler, or distributor of farm machinery, farm implements, and repair parts for farm machinery, and farm implements, or of automobiles, trucks, and repair parts therefor, upon cancellation of a contract by either a retailer or a manufacturer, wholesaler or distributor, fails or refuses to make payment to such dealer as is required by section 51-07-01, or refuses to supply farm machinery, farm implements, and repair parts for farm machinery and farm implements or automobiles or trucks, or repair parts therefor, to any retailer of such products, who may have a retail sales contract dated after July 1st, nineteen hundred and sixty-three, or a contract with no expiration date or a continuing contract in force or effect on the effective date of the nineteen hundred and sixty-three amendment, with such manufacturer, wholesaler, or distributor, such manufacturer, wholesaler or distributor shall be liable in a civil action to be brought by such retailer for one hundred percent of the net cost of such farm implements, machinery and attachments, automobiles and trucks, plus transportation charges which have been paid by the retailer and eighty-five percent of the current net price of repair parts, plus five percent for handling and loading plus freight charges which have been paid by the retailer.

Approved March 13, 1963.

CHAPTER 330

S. B. No. 199
(Morgan, Bopp, Luick)

FALSE ADVERTISING

AN ACT

Pertaining to false or misleading advertising on articles sold or offered for sale to the public, including the price thereof, and providing for a penalty.

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

§ 1. False and Misleading Advertising Prohibited.) No person, firm, corporation, or association with intent to sell, dispose of, increase the consumption of, or induce the public to enter into an obligation relative to, or to acquire title or interest in any food, drug, medicine, patent and proprietary product, merchandise, security, service, medical treatment, paint, varnish, oil, clothing, wearing apparel, machinery, or any-

thing offered to the public, shall make, publish, disseminate, circulate, or place before the public, or directly or indirectly shall cause to be made, published, disseminated, circulated, or placed before the public in a newspaper, or other publication, or in the form of a book, notice, handbill, poster, bill, circular, pamphlet, tab, label, letter, or in any other way, an advertisement which contains any assertion, representation, or statement of fact, including the price thereof, which is untrue, deceptive, or misleading regarding such food, drug, medicine, patent and proprietary product, merchandise, security, service, medical treatment, paint, varnish, oil, clothing, wearing apparel, machinery, or anything offered to the public.

§ 2. Penalty.) Any person, firm, corporation, partnership, or association or any employee or agent thereof who violates any of the provisions of this Act is guilty of a misdemeanor and shall be punished by a fine of not to exceed one hundred dollars or by imprisonment in the county jail for not more than thirty days, or by both such fine and imprisonment.

Approved March 16, 1963.

SOCIAL SECURITY

CHAPTER 331

S. B. No. 150

(Brooks, Hernet, Mutch, Reichert)

SOCIAL SECURITY DEFINITIONS

AN ACT

To repeal subdivision d of subsection 11 of section 52-01-01 of the North Dakota Century Code, relating to affiliation of employing units; to amend and reenact subsection 12 of section 52-01-01 of the North Dakota Century Code, relating to definition of employee; to amend and reenact subdivision e of subsection 13 of section 52-01-01 of the North Dakota Century Code, relating to definition of employment; to amend and reenact subsection (8) of subdivision i of subsection 15 of section 52-01-01 of the North Dakota Century Code to include real estate salesmen and securities salesmen remunerated solely by commissions in employment excluded from unemployment compensation; and to amend and reenact subsection 20 of section 52-01-01 of the North Dakota Century Code, relating to definition of state.

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

§ 1. **Repeal.**) Subdivision d of subsection 11 of section 52-01-01 of the North Dakota Century Code is hereby repealed.

§ 2. **Amendment.**) Subsection 12 of section 52-01-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12. "Employee" means every individual, whether male, female, citizen, alien, or minor, who is performing, or subsequent to January 1, 1936, has performed, services for an employer in an employment subject to this title, and includes an officer of a corporation, but such term does not include—
 - a. any individual who, under the usual common-law rules applicable in determining the employer-employee relationship, has the status of an independent contractor, or
 - b. any individual (except an officer of a corporation) who is not an employee under such common-law rules.

§ 3. **Amendment.**) Subdivision e of subsection 13 of section 52-01-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- e. Services performed by an individual for wages or under any contract of hire shall be deemed to be employment subject to this title unless and until it is shown to the satisfaction of the bureau that such individual, under the usual common-law rules applicable in determining the employer-employee relationship, has the status of an independent contractor, or such individual (except an officer of corporation) is not an employee under such common-law rules.

§ 4. Amendment.) Subsection (8) of subdivision i of subsection 15 of section 52-01-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- i. Service performed:

(8) By an individual for a person as an insurance agent, as an insurance solicitor, as a real estate salesman, or as a securities salesman, if all such services performed by such individual for such persons is performed for remuneration solely by way of commission; or

§ 5. Amendment.) Subsection 20 of section 52-01-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

20. "State" includes, in addition to the states of the United States of America, Puerto Rico and the District of Columbia;

Approved March 9, 1963.

CHAPTER 332

S. B. No. 265
(Wartner)

UNEMPLOYMENT COMPENSATION PUBLIC POLICY

AN ACT

To create and enact section 52-01-05 of the North Dakota Century Code, relating to declaration of public policy as guide to interpretation and application of unemployment compensation insurance law.

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

§ 1.) Section 52-01-05 of the North Dakota Century Code is hereby created and enacted to read as follows:

52-01-05. Declaration of Public Policy.) Involuntary unemployment creates a hardship on the unemployed worker and his family and leads to a state of economic insecurity. Relief from problems of involuntary unemployment imposes a state-wide burden of serious consequence to the people of the state of North Dakota which can best be met by unemployment insurance for the working man who becomes unemployed through no fault of his own. The legislature, therefore, declares that the public good and general welfare of the citizens of the state requires that for laboring people genuinely attached to the labor market there be a systematic and compulsory setting aside of financial reserves to be used as compensation for loss of wages during periods when they become unemployed through no fault of their own.

Approved March 6, 1963.

CHAPTER 333

S. B. No. 151

(Brooks, Hernet, Mutch, Reichert)

RATE OF CONTRIBUTION

AN ACT

To create and enact subsection 5 of section 52-04-06 of the North Dakota Century Code, relating to rate of contributions in the event quarterly taxable payroll exceeds established average annual payroll, and declaring an emergency.

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

§ 1.) Subsection 5 of section 52-04-06 of the North Dakota Century Code is hereby created and enacted to read as follows:

5. Whenever an employer has a quarterly taxable payroll in excess of its established average annual payroll, the tax rate for such employer shall be the standard rate of contributions in effect that year, beginning the first day of the calendar quarter in which such employer's quarterly taxable payroll exceeded its average annual payroll and for the remainder of that calendar year.

§ 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 9, 1963.

CHAPTER 334

H. B. No. 770

(Brown, Aamoth)

ACTIONS TO RECOVER CONTRIBUTIONS

AN ACT

To amend and reenact subsection 1 of section 52-04-12 of the North Dakota Century Code, relating to civil actions to collect contributions for unemployment compensation insurance by providing for service on nonresident employers by service on the secretary of state.

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

§ 1. **Amendment.**) Subsection 1 of section 52-04-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

52-04-12. Civil Action to Collect Contributions, Interest, Penalties, Delinquency Fees—Service on Nonresident Employers—Priority of Action on Calendar—Providing for Judgments.)

1. After due notice, if any employer defaults in any payment of contributions, interest thereon, penalties or delinquency fees, the amount due shall be collected by a civil action and the employer adjudged in default shall pay the cost of such action. If the employer is a nonresident of this state, or a foreign corporation doing business in this state, service of the summons may be made upon any agent, representative, or foreman of said employer in this state, and where there is no agent, representative, or foreman upon whom service can be made, then service upon the secretary of state shall constitute personal service upon such nonresident employer who is in default in such payments, or service may be made in any other manner provided for by law. Civil actions brought under this section to collect contributions or interest thereon, from an employer shall be heard by the court at the earliest possible date, and shall be entitled to preference upon the calendar of the court over all other civil actions except petitions for judicial review under chapter 6 of this title and cases arising under the workmen's compensation law of this state.

Approved March 9, 1963.

CHAPTER 335

S. B. No. 154

(Brooks, Hernett, Mutch, Reichert)

DISQUALIFICATION FOR BENEFITS

AN ACT

To amend and reenact subsections 1, 2 and 3 of section 52-06-02 of the North Dakota Century Code to provide a uniform term and condition of disqualification for unemployment compensation benefits and to impose a disqualification for unemployment compensation benefits for failure to return to customary self employment; to repeal subsection 2 of section 52-04-07 of the North Dakota Century Code, relating to nonchargeability of unemployment compensation benefits to accounts of base period employers.

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

§ 1. Amendment.) Subsections 1, 2 and 3 of section 52-06-02 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

1. For the week in which he has filed an otherwise valid claim for benefits after he has left his last employment voluntarily without good cause, and thereafter until such time as he:
 - (a) Can demonstrate that he has earned remuneration for personal services in employment equivalent to at least ten times his weekly benefit amount as determined under section 52-06-04; and
 - (b) Has not left his last work under disqualifying circumstances.
2. For the week in which he has filed an otherwise valid claim for benefits after he has been discharged for misconduct in connection with his last employment and thereafter until such time as he:
 - (a) Can demonstrate that he has earned remuneration for personal services in employment equivalent to at least ten times his weekly benefit amount as determined under section 52-06-04; and
 - (b) Has not left his last work under disqualifying circumstances.
3. If he has failed, without good cause, either to accept suitable employment; to apply for suitable employment; or to return to his customary self-employment (if any) when so directed to do so by the bureau or its authorized representative. Such disqualification shall continue for the week in which such failure occurred and thereafter until such time as he:

- (a) Can demonstrate that he has earned remuneration for personal services in employment equivalent to at least ten times his weekly benefit amount as determined under section 52-06-04; and
- (b) Has not left his last work under disqualifying circumstances.

§ 2. **Repeal.**) Subsection 2 of section 52-04-07 of the North Dakota Century Code is hereby repealed.

Approved March 9, 1963.

CHAPTER 336

S. B. No. 152

(Brooks, Hernet, Mutch, Reichert)

AMOUNT OF BENEFITS

AN ACT

To amend and reenact subsections 1, 2 and 3 of section 52-06-04 of the North Dakota Century Code, relating to schedule of unemployment compensation benefits, qualifying wages, definitions; and to amend and reenact section 52-06-05 of the North Dakota Century Code, relating to maximum potential unemployment compensation benefits, and declaring an emergency.

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

§ 1. **Amendment.**) Subsections 1, 2 and 3 of section 52-06-04 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

52-06-04. Weekly Benefit Amount — Qualifying Wage — Definitions.)

1. An individual's "weekly benefit amount" shall be an amount equal to one twenty-sixth (computed to the next higher multiple of one dollar) of total wages for insured work paid during that quarter of his base period in which such total wages were highest, but not less than \$15.00 nor more than the amount determined as follows: On or before the 15th day of May of each year the total wages reported on contribution reports for the preceding calendar year shall be divided by the average monthly number of covered workers (determined by dividing the total covered employment reported on contribution reports for the preceding calendar year by 12) to determine the average annual wage. The average annual wage thus obtained shall be divided by 52 and the

average weekly wage thus determined rounded to the nearest cent. One-half of this amount rounded to next higher dollar shall constitute the maximum "weekly benefit amount" paid any individual whose benefit year commences on or after the first day of the first full calendar week in July of such year and prior to the first day of the first full calendar week of July of the next following year.

2. To qualify as an insured worker an individual must have been paid wages for insured work in at least two calendar quarters of his base period totaling not less than 40 times the weekly benefit amount and not less than \$600.00. However, the wage credits of an individual earned during the period commencing with the end of the prior base period and ending on the date on which he filed a valid claim shall not be available for benefit purposes in a subsequent benefit year unless, in addition thereto, such individual has subsequently earned wages for insured work in an amount equal to at least ten times his current weekly benefit amount.
3. For the purpose of this title, the term "insured worker" means an individual who, with respect to a base period, meets the wage and employment requirements of this chapter and "insured work" means employment for "employers".

§ 2. Amendment.) Section 52-06-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

52-06-05. Maximum Potential Benefits.) The maximum potential benefits for any insured worker in a benefit year shall be equal to eighteen times his weekly benefit amount when his qualifying wages are 40 times his weekly benefit amount but less than 55 times his weekly benefit amount; and 22 times his weekly benefit amount when his qualifying wages are 55 times his weekly benefit amount but less than 70 times his weekly benefit amount; and 26 times his weekly benefit amount when his qualifying wages are 70 times or over his weekly benefit amount.

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

Approved March 16, 1963.

CHAPTER 337

H. B. No. 555

(Wastvedt, Haugland, Neukircher, Diehl, Haugen, Overbo)
(Anderson (Richland), Burvee)

USE OF OASIS FUND

AN ACT

To create and enact subdivision 3 of subsection A of section 52-09-07 of the North Dakota Century Code, relating to purposes for which funds may be used.

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

§ 1.) Subdivision 3 of subsection A of section 52-09-07 of the North Dakota Century Code is hereby created and enacted to read as follows:

3. Persons who had terminated covered employment, as defined in subsection B of section 52-09-20 of this chapter, before such agreement execution date because of physical disability and who are not entitled to benefits from any other public retirement or disability plan but who would have been eligible under section 52-09-14, and dependents and survivors of such fully insured persons whenever entitled and eligible. The insured, or his survivors, shall submit a medical diagnostic opinion establishing that his employment was terminated because of physical disability and that such disability has prevented re-employment.

Approved March 4, 1963.

CHAPTER 338

S. B. No. 138
(Thompson, Lips)

OASIS CONTRIBUTIONS

AN ACT

To amend and reenact section 52-09-09 of the North Dakota Century Code, as amended by chapter 314, Session Laws 1961, pertaining to rate of contribution.

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

§ 1. Amendment.) Section 52-09-09 of the North Dakota Century Code, as amended by chapter 314, Session Laws 1961, is hereby amended and reenacted to read as follows:

52-09-09. Rate of Contribution.) In addition to all other taxes there is hereby levied upon each employer, as defined in section 52-09-20, and also upon each employee, as defined in section 52-09-20, a tax, equal to one and one-half percentum of the wages paid before July 1, 1955, and two percentum of the wages paid after June, 1955, up to July 1, 1957, to be paid by each employer and each employee. The above tax imposed by this chapter shall be collected by the employer from the employee by deducting the amount of the tax from the wages as and when paid. From and after July 1, 1957, and until July 1, 1959, the tax upon each employer shall be equal to four percent of the wages paid to each employee, and after June 30, 1959, up to July 1, 1961 such tax shall be equal to three and one-half percent, and after June 30, 1961, and until July 1, 1963, such tax shall be equal to three percent, and after June 30, 1963 such tax shall be equal to two percent. After June 30, 1957, there shall be no tax hereunder upon the employee.

Approved March 5, 1963.

CHAPTER 339

S. B. No. 140
(Thompson, Lips)

GOVERNMENT EMPLOYEE CONTRIBUTIONS

AN ACT

To amend and reenact section 52-10-04 of the North Dakota Century Code, as amended by chapter 316, Session Laws of 1961, pertaining to contributions by employees of the state and of political subdivisions.

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

§ 1. **Amendment.)** Section 52-10-04 of the North Dakota Century Code, as amended by chapter 316, Session Laws of 1961, is hereby amended and reenacted to read as follows:

52-10-04. Contributions by Employees of the State and of Political Subdivisions.) a. Every employee of the state or of a political subdivision and every employer shall be required to pay for the period of such coverage, into the contribution fund established by section 52-10-06, contributions, with respect to wages, as defined in section 52-10-02, equal to the amount of the tax which would be imposed by the Federal Insurance Contributions Act if such services constituted employment within the meaning of that Act. Such employee's liability shall arise in consideration of the employee's retention in the service of the state or of a political subdivision or his entry upon such service, after the enactment of this chapter;

b. The employees' contribution imposed by this section shall be collected by deducting the amount of the contribution from wages as and when paid, but failure to make such deduction shall not relieve the employee from liability for such contribution;

c. If more or less than the correct amount of the contribution imposed by this section is paid or deducted with respect to any remuneration, proper adjustments, or refund if adjustment is impracticable, shall be made, without interest, in such manner and at such times as the state agency shall prescribe;

d. In addition to the contributions required in subsection a of this section, every employer shall be required to pay for the period of coverage, into the contribution fund established by section 52-10-06, contributions, with respect to wages as defined in section 52-10-02, equal to one-tenth of one percent after June, 1959. The purpose of this contribution is to provide a fund out of which the legislature may appropriate for the

administration of chapter 52-10 and chapter 52-09 of the North Dakota Century Code. The unemployment compensation division will maintain complete and accurate records of all contributions under this subsection, and appropriations made therefrom. If on the 1st day of June in any year the accumulated contributions under this subsection, less appropriations, exceeds \$100,000.00, or more, the tax shall be suspended during the succeeding year, and until such year in which, on the 1st day of June of the previous year, the accumulated contributions, less appropriations, are less than \$100,000.00, at which time the tax shall be reimposed and collected as herein provided.

Approved March 5, 1963.

CHAPTER 340

S. B. No. 176

(Lips, Reichert, Longmire, Redlin)

STATE EMPLOYEES' MEDICAL AND LIFE INSURANCE PLANS

AN ACT

To provide for the general welfare of state employees by authorizing the state of North Dakota and all of its departments and agencies to enter into a group hospitalization and medical care plan and group life insurance in accordance with the provisions of this Act.

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

§ 1. Formulation of Plan.) Any department, board or agency of the state of North Dakota, hereinafter referred to as agency, may upon its own behalf or in conjunction with any other agency or agencies enter into a group hospitalization and medical care plan and group life insurance to promote the economy and efficiency of employment in the state's service by making available hospitalization and medical care and group life insurance protection to state employees and their families, thereby enabling the employees to care for themselves and their dependents in times of accident or illness, and which by its protection will improve state employment within the state, reduce excessive personnel turnover and offer suitable attraction to high grade men and women to enter the service of state employment.

§ 2. Adoption of Employees' Group Hospitalization and Medical Care Plan.) The provisions of this chapter shall become operative as to any agency qualified to adopt the same by:

1. The adoption by the agency of a plan which may or may not include group life insurance, in compliance with this chapter; and
2. The concurrence in such plan by the employees of said agency by a majority vote thereof.

Thereafter all participating employees of the agency shall be bound by the provisions of such plan without further action by the agency or by the employees of such agency.

§ 3. Employees' Contribution.) Every regular agency employee shall, at the time of employment, state in writing whether or not he desires to become a member of the employees' hospitalization and medical care and life insurance group and if his statement is in the affirmative he shall be included as a member in said group. Each member shall be assessed and required to pay annually the amount of the employee contribution as set forth in the group contract, and such assessment shall be deducted and retained out of such salary in equal monthly installments.

§ 4. Agency Contribution.) Each agency is authorized to pay towards such hospitalization and medical care and group life insurance coverage from its funds appropriated for payroll and salary a sum equal to five dollars per month for each participating employee.

§ 5. Optional Coverage for Employees' Family.) Each participating employee may elect to include his wife and all minor children within the coverage of said hospitalization and medical care plan and in such event such an employee shall be assessed and required to pay the entire annual cost of such additional coverage, and such assessment shall be deducted and retained out of his salary in equal monthly installments.

Approved March 19, 1963.

SPORTS AND AMUSEMENTS

CHAPTER 341

H. B. No. 882
(Tough, Davis, Dickey)

MINORS AT PUBLIC DANCES

AN ACT

To amend and reenact section 53-02-10 of the North Dakota Century Code, relating to the admission of certain minors to public dances.

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

§ 1. Amendment.) Section 53-02-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

53-02-10. Admission of Certain Minors to Public Dance Prohibited—Exception.) No proprietor, lessee, manager, nor employee of any proprietor, lessee, or manager of any hall, room, pavilion, bowery, platform, or other structure in or to which the public generally is invited to participate by paying an admission fee in money or other token of value shall admit, while dancing is practiced in or at such place, any person under the age of eighteen years unless such person is accompanied by a parent or guardian. The provisions of this section shall not apply to dances sponsored and supervised by a municipality, school district, or civic, fraternal, or religious organization. A copy of this section shall be posted in a conspicuous place at the entrance of every public dancing place.

Approved March 13, 1963.

CHAPTER 342

H. B. No. 880
(Tough, Johnston, Kelly)

DANCING ON PREMISES WHERE LIQUOR SOLD, REPEAL

AN ACT

To repeal section 53-02-12 of the North Dakota Century Code, relating to dancing on premises at or near which liquor is sold.

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

§ 1. **Repeal.**) Section 53-02-12 of the North Dakota Century Code is hereby repealed.

Approved March 21, 1963.

CHAPTER 343

H. B. No. 824
(Vendsel)

PROHIBITION OF MINORS IN CERTAIN PLACES

AN ACT

To amend and reenact section 53-05-08 of the North Dakota Century Code, relating to public places where minors are not allowed.

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

§ 1. **Amendment.**) Section 53-05-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

53-05-08. Minors Not Allowed in Certain Public Places—Exception—Penalty.) It shall be unlawful for the owner of any pool or billiard hall or any place where public games of pool, billiards, or cards are played, to allow any person under the age of eighteen years or any person attending a local high school to play any of the games mentioned or to be allowed to visit any of said places, unless accompanied by parent or guardian or unless said places have been individually approved and certified by resolution of the governing body of a city, village, or county for the use and enjoyment of persons under the age of eighteen years or persons attending a local high school.

Any person found guilty of violating this section shall be guilty of a misdemeanor and shall be punished by a fine of not less than ten dollars, nor more than one hundred dollars, or by imprisonment in the county jail not to exceed thirty days, or by both such fine and imprisonment.

Approved March 9, 1963.

STATE GOVERNMENT

CHAPTER 344

H. B. No. 656
(Solberg)

THEODORE ROOSEVELT ROUGH RIDER AWARDS

AN ACT

Providing for Theodore Roosevelt Rough Rider Awards, selection of award recipients, and making an appropriation.

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

§ 1. Theodore Roosevelt Rough Rider Award.) There shall be awarded by the state of North Dakota in the name of the legislative assembly and the citizens of this state, an award to be known as the Theodore Roosevelt Rough Rider Award. Such award shall be the highest recognition by the state of present or former North Dakotans who have been influenced by this state in achieving national recognition in their fields of endeavor, thereby reflecting credit upon this state and its citizens. The award, of a type and design approved by the governor, shall be awarded by the governor upon the approval of a committee consisting of the governor, secretary of state, and the superintendent of the state historical society. A record of all such awards and pertinent information in regard to each recipient shall be retained by the secretary of state.

§ 2. 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 the governor for the purpose of procuring a supply of Theodore Roosevelt Rough Rider Awards for the purposes described in section 1 of this Act during the biennium beginning July 1, 1963, and ending June 30, 1965.

Approved March 4, 1963.

CHAPTER 345

H. B. No. 653

(Fossum, Reimers, Anderson (McHenry), Christopher, Dahl, Winge)
(Skaar, Erickson, Berg, Vinje, Ganser, Streibel, Haugen, Lindberg)
(Neukircher, Stallman, Unke, Bloom, Belquist)
(Christensen (McLean))

LEGISLATIVE APPORTIONMENT

AN ACT

To amend and reenact section 54-03-01 of the North Dakota Century Code, relating to the apportionment of the state house of representatives, and providing that such house shall consist of one hundred and nine members.

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


§ 1. **Amendment.)** Section 54-03-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-03-01. State Legislative Apportionment.) The senatorial districts of the state shall be formed, and the senators and representatives shall be apportioned as follows:

1. The first legislative district shall consist of the county of Pembina, and shall be entitled to one senator and two representatives;
2. The second legislative district shall consist of the city of Kenmare and that portion of Ward County situated and being in townships one hundred fifty-four, one hundred fifty-five, and one hundred fifty-six of ranges eighty-five, eighty-six, and eighty-seven; township one hundred fifty-seven of ranges eighty-four, eighty-five, eighty-six, and eighty-seven; township one hundred fifty-eight of range eighty-seven; townships one hundred fifty-nine and one hundred sixty of ranges eighty-seven, eighty-eight, and eighty-nine; and township one hundred sixty-one of range eighty-eight, and shall be entitled to one senator and one representative;
3. The third legislative district shall consist of the townships of Perth, Latona, Adams, Silvesta, Cleveland, Norton, Vesta, Tiber, Medford, Vernon, Golden, Lamp-ton, Eden, Rushford, Kensington, Dundee, Ops, Prairie Center, Fertile, Glenwood, Kinless, Shepherd, Sauter, and Dewey, the villages of Lankin, Fordville, Edinburg, Conway, Fairdale, Hoople, Pisek, Adams, and the city of Park River, in the county of Walsh, and shall be entitled to one senator and two representatives;

5

4. The fourth legislative district shall consist of the townships of Forest River, Walsh Centre, Grafton, Farmington, Ardoch, Harriston, Oakwood, Martin, Walshville, Pulaski, Acton, and St. Andrews, the villages of Forest River and Ardock, and cities of Grafton and Minto, in the county of Walsh, and shall be entitled to one senator and two representatives;
5. The fifth legislative district shall consist of the townships of Gilby, Johnstown, Strabane, Wheatfield, Hegton, Arvilla, Avon, Northwood, Lind, Grace, Larimore, Elm Grove, Agnes, Inkster, Elkmount, Plymouth, Niagara, Moraine, Logan Center, and Loretta, and the cities of Northwood, Inkster, and Larimore, in the county of Grand Forks, and shall be entitled to one senator and one representative;
6. The sixth legislative district shall consist of the fourth, fifth, and sixth wards of the city of Grand Forks, as now constituted, and the townships of Falconer, Turtle River, Ferry, Rye, Blooming, Mekinock, Lakeville, and Levant, in the county of Grand Forks, and shall be entitled to one senator and three representatives;
7. The seventh legislative district shall consist of the first, second, third, and seventh wards of the city of Grand Forks as now constituted and the townships of Grand Forks, Brenna, Oakville, Chester, Pleasant View, Fairfield, Allendale, Walle, Bentru, Americus, Michigan, Union, Washington, and the first and second wards of the city of Reynolds, in the county of Grand Forks, and shall be entitled to one senator and three representatives;
8. The eighth legislative district shall consist of the county of Traill, and shall be entitled to one senator and two representatives;
9. The ninth legislative district shall consist of the township of Fargo, and the city of Fargo, in the county of Cass, and shall be entitled to one senator and six representatives;
10. The tenth legislative district shall consist of the townships of Noble, Wiser, Harwood, Reed, Barnes, Stanley, Pleasant, Kinyon, Gardner, Berlin, Raymond, Mapleton, Warren, Normanna, Bell, Harmony, Durbin, Addison, Davenport, Casselton, and the fractional township number one hundred thirty-nine, range forty-eight, in the county of Cass, including the villages of Mapleton, Argusville, Gardner, Horace, West Fargo, Grandin, Kindred, Southwest Fargo, Davenport, and the city of

- Casselton, and shall be entitled to one senator and three representatives;
11. The eleventh legislative district shall consist of the townships of Gunkel, Rush River, Hunter, Arthur, Amenia, Everest, Maple River, Leonard, Dows, Erie, Empire, Wheatland, Gill, Walburg, Watson, Page, Rich, Ayr, Buffalo, Howes, Eldred, Highland, Rochester, Lake, Cornell, Tower, Hill, Clifton, and Pontiac, and the villages of Page, Buffalo, Tower City, Hunter, Arthur, Amenia, Ayr, and Alice, in the county of Cass, and shall be entitled to one senator and one representative;
 12. The twelfth legislative district shall consist of the townships of Eagle, Abercrombie, Dwight, Ibsen, Center, Mooreton, Brandenburg, Summit, Fairmount, DeVillo, LaMars, Waldo, Greendale, the villages of Abercrombie, Great Bend, and Fairmount, and the city of Wahpeton, in the county of Richland, and shall be entitled to one senator and two representatives;
 13. The thirteenth legislative district shall consist of the county of Sargent, and shall be entitled to one senator and one representative;
 14. The fourteenth legislative district shall consist of the county of Ransom, and shall be entitled to one senator and one representative;
 15. The fifteenth legislative district shall consist of the townships of Baldwin, Dazey, Lake Town, Pierce, Uxbridge, Edna, Rogers, Grand Prairie, Minnie Lake, Anderson, Hobert, Potter, villages of Dazey, Wimbleton, Sanborn, Leal, Pillsbury, Rogers, city of Valley City, township one hundred forty-three, range fifty-six; township one hundred forty-three, range fifty-eight; township one hundred forty-two, range fifty-eight; township one hundred forty-one, range fifty-eight; township one hundred forty-one, range fifty-nine; township one hundred forty-one, range sixty-one; and township one hundred forty, range fifty-eight in the county of Barnes, and shall be entitled to one senator and two representatives;
 16. The sixteenth legislative district shall consist of the counties of Steele and Griggs, and shall be entitled to one senator and two representatives;
 17. The seventeenth legislative district shall consist of the county of Nelson, and shall be entitled to one senator and one representative;
 18. The eighteenth legislative district shall consist of the county of Cavalier, and shall be entitled to one senator and two representatives;
- 

19. The nineteenth legislative district shall consist of the county of Rolette, and shall be entitled to one senator and two representatives;
20. The twentieth legislative district shall consist of the county of Benson, and shall be entitled to one senator and two representatives;
21. The twenty-first legislative district shall consist of the county of Ramsey, and shall be entitled to one senator and two representatives;
22. The twenty-second legislative district shall consist of the county of Towner, and shall be entitled to one senator and one representative;
23. The twenty-third legislative district shall consist of the county of Stutsman, and shall be entitled to one senator and four representatives;
24. The twenty-fourth legislative district shall consist of the county of LaMoure, and shall be entitled to one senator and two representatives;
25. The twenty-fifth legislative district shall consist of the county of Dickey, and shall be entitled to one senator and one representative;
26. The twenty-sixth legislative district shall consist of the county of Emmons, and shall be entitled to one senator and two representatives;
27. The twenty-seventh legislative district shall consist of the county of Burleigh, and shall be entitled to one senator and five representatives;
28. The twenty-eighth legislative district shall consist of the county of Bottineau, and shall be entitled to one senator and two representatives;
29. The twenty-ninth legislative district shall consist of the city of Minot, and that portion of Ward County situated and being in townships one hundred fifty-one, one hundred fifty-two, and one hundred fifty-three of ranges eighty-one, eighty-two, eighty-three, eighty-four, eighty-five, eighty-six, and eighty-seven; townships one hundred fifty-four, one hundred fifty-five and one hundred fifty-six, of ranges eighty-one, eighty-two, eighty-three, and eighty-four, and township one hundred fifty-seven of ranges eighty-one, eighty-two, and eighty-three, and shall be entitled to one senator and six representatives;
30. The thirtieth legislative district shall consist of Morton County, and shall be entitled to one senator and three representatives;

h₂ w

31. The thirty-first legislative district shall consist of the county of Stark, and shall be entitled to one senator and three representatives;
32. The thirty-second legislative district shall consist of the counties of Eddy and Foster, and shall be entitled to one senator and two representatives;
33. The thirty-third legislative district shall consist of the county of Wells, and shall be entitled to one senator and two representatives;
34. The thirty-fourth legislative district shall consist of the county of McHenry, and shall be entitled to one senator and two representatives;
35. The thirty-fifth legislative district shall consist of the counties of Sheridan and Kidder, and shall be entitled to one senator and two representatives;
36. The thirty-sixth legislative district shall consist of the counties of McIntosh and Logan, and shall be entitled to one senator and two representatives;
37. The thirty-seventh legislative district shall consist of the townships of Walcott, Colfax, Barrie, Helendale, Sheyenne, Viking, Garborg, Freeman, West End, Homestead, Barney, Antelope, Danton, Nanson, Dexter, Wyndmere, Belford, Liberty, Grove, Brightwood, Elma, Duerr, Moran, and Grant, the village of Wyndmere, and the cities of Hankinson and Lidgerwood, in the county of Richland, and shall be entitled to one senator and two representatives;
38. The thirty-eighth legislative district shall consist of the townships of Weimer, Noltimier, Alta, Oriska, Springvale, Cuba, Green, Heman, Mansfield, Meadow Lake, Svea, Scandia, Norma, Binghampton, Raritan, Thordenskjold, Oakhill, Spring Creek, Rosebud, Greenland, township one hundred forty, range sixty-one; township one hundred thirty-nine, range fifty-eight; and township one hundred thirty-eight, range fifty-eight, villages of Litchville, Nome, Kathryn, Fingal, Eckelson, and Hastings, in the county of Barnes, and shall be entitled to one senator and one representative;
39. The thirty-ninth legislative district shall consist of the counties of Billings, Bowman, Slope, and Golden Valley, and shall be entitled to one senator and four representatives;
40. The fortieth legislative district shall consist of the counties of Burke and Divide, and shall be entitled to one senator and two representatives;

22

41. The forty-first legislative district shall consist of the county of McKenzie, and shall be entitled to one senator and one representative;
42. The forty-second legislative district shall consist of the county of Pierce, and shall be entitled to one senator and one representative;
43. The forty-third legislative district shall consist of the county of Renville, and shall be entitled to one senator and one representative;
44. The forty-fourth legislative district shall consist of the county of Mountrail, and shall be entitled to one senator and two representatives;
45. The forty-fifth legislative district shall consist of the county of Williams, and shall be entitled to one senator and four representatives;
46. The forty-sixth legislative district shall consist of the county of McLean, and shall be entitled to one senator and two representatives;
47. The forty-seventh legislative district shall consist of the counties of Grant and Sioux, and shall be entitled to one senator and two representatives;
48. The forty-eighth legislative district shall consist of the counties of Mercer, Oliver, and Dunn, and shall be entitled to one senator and three representatives;
49. The forty-ninth legislative district shall consist of the counties of Adams and Hettinger, and shall be entitled to one senator and two representatives.

Approved March 13, 1963.

CHAPTER 346

S. B. No. 323
(Longmire)

STATE DEPARTMENTAL REPORTS

AN ACT

To amend and reenact sections 54-06-03, 54-06-04, 54-06-05, 2-05-04, 4-02-22, 4-05-03.4, 4-05-10, 4-06-04, 4-13-02, 4-13-09, 4-27-11, 6-01-10, 7-05-03, 15-02-08, 15-10-14, 15-11-14, 15-20-10, 15-20-24, 15-21-14, 15-52-28, 18-01-29, subsection 3 of section 20-02-04, sections 23-01-06, 24-02-10, subsection 7 of section 26-01-02, sections 26-22-04, 26-23-21, 27-15-08, 34-05-01, 34-06-20, 36-01-11, subsection 5 of section 37-03-05, sections 37-14-09, 37-15-19, 38-03-12, 43-01-06, 43-02-06, 43-04-19, 43-09-05, 43-10-08, 43-13-09, 43-15-12, 43-17-12, 43-19-10, 43-23-02, 43-28-09, subsection 3 of section 46-02-04, sections 46-04-14, 47-23-07, 49-01-13, 50-06-13, 52-02-03, 52-10-09, 53-01-08, subsection 9 of section 54-09-02, subsection 3 of section 54-10-01, subsection 12 of section 54-11-01, sections 54-12-05, 54-15-08, subdivision b of subsection 3 of section 54-15-13, sections 54-17-06, 54-21-09, 54-24-06, 54-36-06, subsection 7 of section 54-38-05, section 54-42-05, subsections 15 and 16 of section 54-44-04, sections 54-46-11, 54-49-08, subsection 9 of section 57-01-02, sections 61-03-04, and 65-02-09 of the North Dakota Century Code, relating to reports of executive and administrative agencies and departments, the time when such reports shall be made, the printing and binding of such reports and their distribution, and repealing sections 4-05-08.5, 4-05-09, 46-03-02, 46-04-11, and 46-04-13 of the North Dakota Century Code, relating to official reports, their printing and distribution.

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

§ 1. **Amendment.)** Section 54-06-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-06-03. Report of State Officers and Boards.) Except as otherwise provided by law all officers, departments, boards, commissions, and state institutions which are required to make and transmit reports annually or biennially to the governor and the secretary of state shall submit such reports to the governor and the secretary of state not later than October first of the year in which such report is required to be made.

§ 2. **Amendment.)** Section 54-06-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-06-04. Form and Number of Reports To Be Submitted.)

1. The following executive and administrative officers and departments shall submit to the governor and the secretary of state reports covering their operations for the two preced-

ing fiscal years not later than the first day of October each year preceding the regular session of the legislative assembly:

- a. Secretary of state;
- b. State auditor;
- c. Commissioner of insurance;
- d. Attorney general;
- e. Commissioner of agriculture and labor;
- f. Superintendent of public instruction;
- g. State tax commissioner;
- h. Public service commission;
- i. State board of higher education;
- j. Board of administration;
- k. Highway commissioner;
- l. State laboratories department;
- m. Public welfare board; and
- n. Workmen's compensation bureau including the unemployment division.

2. Three typewritten or mimeographed copies of any report mentioned in subsection 1 shall be submitted in the form and style prescribed by the director of accounts and purchases. One copy of each report shall be submitted to the governor and two copies to the secretary of state. The secretary of state shall require the printing of each report mentioned in subsection 1 into pamphlets, the size and number of copies to be printed to be determined by the secretary of state. The secretary of state shall set aside twenty-five copies of each report printed in pamphlet form to be bound into volumes or sets and to be known as "public documents". The style of binding to be used for the public documents shall be determined by the secretary of state. There shall be provided by the secretary of state a suitable table of contents referring to the reports contained in the public documents. A copy of the public documents shall be distributed by the secretary of state on or before the second day of January of each odd-numbered year to the following agencies:

- a. Governor's office;
- b. Attorney general's office;
- c. Legislative research committee;
- d. State law library;
- e. The state institutions of higher education;
- f. State library; and
- g. Two volumes shall remain in the office of the secretary of state for official and public use.

The remaining volumes or sets of the public documents shall be retained by the secretary of state to be distributed at his discretion.

3. The director of accounts and purchases and the state treasurer shall make annual reports to the governor and the secretary of state not later than the first day of October of each year upon their operations for the preceding fiscal year. The reports submitted by the director of accounts and purchases and the state treasurer shall be typewritten or mimeographed in the same form and style prescribed for the reports in subsection 1. One copy of each report shall be submitted to the governor and two copies to the secretary of state. The secretary of state shall require the printing of the reports received from the director of accounts and purchases and the state treasurer in pamphlet form and include them in the public documents.

4. The state budget board and the legislative research committee shall make biennial reports as prescribed by sections 54-15-08 and 54-35-07, which may, at their discretion, be included in the public documents.

5. This section shall not prohibit the executive and administrative officers and departments enumerated in subsection 1 from receiving such additional copies of their reports as may be made available and printed in pamphlet form by the secretary of state for the purpose of distribution as the administrative officers and departments shall deem necessary.

6. All other officers, departments, boards, commissions, and state institutions required to submit reports to the governor and the secretary of state shall submit typewritten or mimeographed copies of their reports in the form and style prescribed by the director of accounts and purchases on or before the first day of October in each year preceding the regular session of the legislative assembly. One copy of each report shall be submitted to the governor and two copies to the secretary of state. The secretary of state shall cause to be prepared sixteen copies of each report submitted under the provisions of this subsection and shall bind these reports into volumes or sets to be known as "biennial reports of administrative agencies and boards" which shall be distributed as provided in subsection 2 of this section. The style of binding to be used for the biennial reports of administrative agencies and boards shall be determined by the secretary of state. The reports included in this subsection shall not be further printed or reproduced except as provided for in this subsection and section 54-06-05.

7. All executive and administrative officers and departments responsible for submitting reports under the provisions

of this section shall bear the costs of the preparation and any printing of the reports.

8. Any executive and administrative officers and departments not required to submit a report by law, but electing to do so, shall submit such report under the provisions of subsection 6.

§ 3. Amendment.) Section 54-06-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-06-05. Secretary of State May Condense Report—Number of Copies of Report.) The secretary of state may condense any typewritten or mimeographed report submitted to him and, if in his discretion the need is apparent and clearly essential in the operation of the agency concerned or clearly essential for other governmental purposes or public uses, may order a copy of the condensed report to be printed at the expense of the agency submitting the report. Unless the number of copies of any report to be printed is fixed by law, the secretary of state shall specify the number thereof to be printed.

§ 4. Amendment.) Section 2-05-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2-05-04. Commission Organization—Reports—Offices.) The commission shall, within thirty days after its appointment, organize, and make such rules and regulations for its administration, as it may deem expedient. On or before the first day of October of each even-numbered year, the commission shall submit a report to the governor and the secretary of state in the manner prescribed by subsection 6 of section 54-06-04 of its proceedings during the preceding two fiscal years, an itemized statement of all revenue and of all expenditures made, and any additional information which may be required by the governor. The commission shall maintain its office in the state capitol.

§ 5. Amendment.) Section 4-02-22 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-02-22. Executive Committee Appointed by Directors — Duties.) The board of directors of each district association shall appoint an executive committee to keep an accurate account of the expenditures of all moneys appropriated to it by the state and of all its receipts and expenditures. Such committee shall consist of five members. Each committee shall collect, arrange, and collate all the information in relation to the nature and preparation of soils, the cultivation

and growth of crops, the breeding and management of stock, the application and character of manure and fertilizers, the introduction of new cereals and other grains and other agricultural subjects.

§ 6. **Amendment.)** Section 4-05-03.4 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-05-03.4. Official in Charge.) The superintendent of the present Dickinson branch station will have administrative power over the additional activities of the station.

§ 7. **Amendment.)** Section 4-05-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-05-10. Reports to Director at Fargo and to State Board of Higher Education.) The superintendent of each experiment station shall make a biennial report to the director of the experiment station at Fargo on or before the first day of August of each even-numbered year. Each report shall set forth in detail the investigations and experiments made during the preceding fiscal biennium, recommendations for the welfare of the station, the financial condition of the station, how all moneys have been expended, and the results of experiments carried on. The director shall submit these reports, with a biennial report of the Fargo station, to the board of higher education on or before the first day of September of each even-numbered year. The board of higher education shall include a composite of the reports from the experimental stations in its biennial report to the governor and the secretary of state.

§ 8. **Amendment.)** Section 4-06-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-06-04. Commissioners to Constitute Agricultural Code Commission.) The state commissioners shall constitute an agricultural code commission, and shall compile facts and data, and make recommendations in respect thereto. They shall furnish to the governor and the secretary of state on or before the first day of October of each even-numbered year, a report in the manner prescribed by subsection 6 of section 54-06-04 containing such information, facts, and data, and the recommendations based thereon.

§ 9. **Amendment.)** Section 4-13-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-13-02. Executive Committee of Association—Appointment and Duties.) The board of directors of the association shall appoint an executive committee to keep an accurate account of the expenditures of all moneys appropriated to it by the state and all other receipts and expenditures, and to collect information in relation to the poultry industry in the state, and report the same, with a statement of its doings, to the governor and secretary of state on or before the first day of October of each even-numbered year as provided for by section 54-06-03 and subsection 6 of section 54-06-04. All moneys appropriated to such association shall be paid over to the treasurer thereof on the order of the president attested by the secretary.

§ 10. Amendment.) Section 4-13-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-13-09. Report Made by Board.) The board shall make a biennial report of all its proceedings and transactions for the preceding two fiscal years to the governor and the secretary of state as prescribed by section 54-06-03 and subsection 6 of section 54-06-04.

§ 11. Amendment.) Section 4-27-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-27-11. Dairy Products Promotion Commission.) The commission shall make a full and complete report to the governor and the secretary of state of its activities for the preceding two fiscal years on or before October first of each even-numbered year as prescribed by subsection 6 of section 54-06-04. The books, records and accounts shall be audited annually by the state auditor, the cost of such audit to be paid from the funds of the North Dakota dairy products promotion commission.

§ 12. Amendment.) Section 6-01-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-01-10. State Examiner to Keep Records and Make Reports—Report of State Banking Board.) The chief deputy examiner shall act as secretary and keep all proper records and files pertaining to the duties and work of his office and the proceedings of the board. The state examiner shall report to the board annually, touching on all his official acts and those of his deputy examiners, giving abstracts of statistics and of the conditions of the various institutions to which his duties relate, and making such recommendations and sugges-

tions as he may deem proper. The state banking board biennially shall make a full report of its proceedings to the governor and secretary of state as prescribed by section 54-06-03 and subsection 6 of section 54-06-04. There shall be included in the banking board's report a summary or abstract of the reports of the state examiner.

§ 13. **Amendment.)** Section 7-05-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

7-05-03. Building and Loan Associations.) The state examiner shall keep and preserve in permanent form a full record of his proceedings, including a concise statement of each association examined, and he shall make a biennial report to the governor and the secretary of state as prescribed by subsection 6 of section 54-06-04, of the general conduct and condition of the building and loan associations doing business in this state with such suggestions as he may deem expedient. Such report also shall include the information contained in the statement required of the association arranged in tabulated form. He also shall report the whole amount of the income of his office paid by such associations, the source from which derived, and the expense in detail during the preceding two fiscal years.

§ 14. **Amendment.)** Section 15-02-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-02-08. Commissioner to Keep Record of Permanent Funds—Biennial Report to Governor and Secretary of State.) The commissioner shall keep a record in suitable books showing a detailed quarterly statement of the condition of all of the permanent funds under the control of the board of university and school lands, the amount of each fund, how invested, when due, interest paid, and all acts connected with the management of such funds. All records and record books shall be open at all times for inspection by the public. The commissioner shall report biennially to the governor and the secretary of state as prescribed by subsection 6 of section 54-06-04 all investments of such funds. Such report also shall show the work done during the preceding fiscal biennium, and shall show the number of acres of land sold or leased by the department, the amount received therefor, the amount of interest received to the credit of the several funds, the expense of administration of the department, and all such other matters relating to his office as shall be necessary to disclose fully the operation of the department.

§ 15. **Amendment.)** Section 15-10-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-10-14. Accounts and Records of Institutions — Biennial Report.) The state board of higher education shall prescribe for all of the institutions under its control standard systems of accounts and records and, biennially on or before the first day of October of each even-numbered year as prescribed by section 56-04-04, shall make a report to the governor and the secretary of state covering in detail the operations of the educational institutions under its control.

§ 16. **Amendment.)** Section 15-11-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-11-14. Annual Report by State Board of Higher Education on Surveys.) On or before the first day of October of each year preceding the regular session of the legislative assembly, the state board of higher education shall make a biennial report to the governor and the secretary of state as prescribed by section 54-06-04, showing the progress of the geological surveys for the preceding two fiscal years, accompanied by such maps, drawings, and specifications as may be necessary and proper to exemplify the same.

§ 17. **Amendment.)** Section 15-20-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-20-10. Report of State Board of Public School Education to Governor and Secretary of State.) The state board of public school education, shall make a biennial report to the governor and the secretary of state on or before the first day of October of each even-numbered year as prescribed by section 54-06-03 and subsection 6 of section 54-06-04 covering the operations of the educational institutions under its control. The state board in its report shall set forth the condition of vocational education in the state, a list of the schools to which federal and state aid for vocational education has been given, and a statement of the expenditures of federal and state funds for that purpose.

§ 18. **Amendment.)** Section 15-20-24 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-20-24. Report to Governor and Secretary of State by State Board.) The state board, in its biennial report to the governor and the secretary of state covering the operations

of the educational institutions under its control shall set forth the condition of vocational rehabilitation education in the state, a list of schools to which federal and state aid in vocational rehabilitation has been given, and a detailed statement of expenditures of federal and state funds for that purpose.

§ 19. Amendment.) Section 15-21-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-21-14. Biennial Report—Contents.) On or before the first day of October preceding each regular session of the legislative assembly, the superintendent of public instruction shall make and transmit to the governor and secretary of state as prescribed by section 54-06-04 a report showing:

1. The number of school districts in the state and the number of teachers employed, and pupils taught therein, the attendance of pupils, and the studies pursued by them;
2. The financial condition of the various public schools, their receipts and expenditures, the value of school-houses and property, the costs of tuition, and the salaries of teachers;
3. The condition, educational and financial, as far as it can be ascertained, of the private schools and academies of the state; and
4. Such general matters, information, and recommendations relating to the educational interests of the state as he may deem important.

§ 20. Amendment.) Section 15-52-28 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-52-28. Board Biennial Report.) The chairman shall prepare a biennial report as prescribed by subsection 6 of section 54-06-04 of the activities of the board and submit such report to the governor and secretary of state, together with such recommendations as the board deems desirable.

§ 21. Amendment.) Section 18-01-29 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

18-01-29. Biennial Report of Fire Marshal.) The state fire marshal shall submit biennially a detailed report as prescribed by subsection 6 of section 54-06-04 of his official actions to the governor and the secretary of state.

§ 22. **Amendment.)** Subsection 3 of section 20-02-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. Keep an accurate record of all the transactions and expenditures of his department and on or before the first day of October of each year preceding the regular session of the legislative assembly make and file with the governor and the secretary of state a detailed report as prescribed by subsection 6 of section 54-06-04 of such transactions and expenditures for the preceding two fiscal years;

§ 23. **Amendment.)** Section 23-01-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-01-06. Report of State Health Officer—Contents.) The state health officer, on or before the first day of October of each even-numbered year, shall make a report to the governor and the secretary of state as prescribed by subsection 6 of section 54-06-04 covering the preceding two fiscal years on the following subjects:

1. The activities of the various divisions, the work accomplished during the two years covered by the report, and an analysis of the program of each of the divisions;
2. The expenditures of the state department of health;
3. The expenditures in each county board of health or the district board of health; and
4. Any reports relating to the hospital program as required by the health council.

§ 24. **Amendment.)** Section 24-02-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

24-02-10. Biennial Report.) On or before the first day of October of each even-numbered year, the commissioner shall transmit to the governor and secretary of state a full and complete biennial report as prescribed by section 54-06-04 of the activities of his office for the preceding two fiscal years.

§ 25. **Amendment.)** Subsection 7 of section 26-01-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

7. To furnish a written report as prescribed by section 54-06-04 to the governor and the secretary of state on or before the first day of October of each even-numbered year showing his official acts, the receipts and expenditures of his department during the preceding two fiscal

years, an abstract only of the reports of the various insurance companies doing business in this state showing the condition of such companies, and such other information as will exhibit the affairs of his department;

§ 26. **Amendment.)** Section 26-22-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-22-04. Accounts—Report to the Governor—Preparation of Forms.) The commissioner of insurance shall keep an accurate account of all moneys expended and disbursed by the department and not later than the first day of October of each year preceding the regular session of the legislative assembly shall include in his report filed with the governor and the secretary of state a report as prescribed by section 54-06-04 of the activities of the department for the preceding two fiscal years. The commissioner shall prepare all forms and blanks necessary or convenient in accomplishing the purpose of this chapter.

§ 27. **Amendment.)** Section 26-23-21 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-23-21. Publication of Statement of Fund—Biennial Report to Governor and Secretary of State.) The commissioner, on or about the first day of October in each year preceding the regular session of the legislative assembly, shall publish in four newspapers of general circulation within the state a copy of the statement of his work and of the condition of the fund during the preceding year. He shall make a biennial report on or before October first of each even-numbered year as prescribed by section 54-06-04 to the governor and to the secretary of state containing a detailed statement of the work and the condition of said fund during the preceding two fiscal years.

§ 28. **Amendment.)** Section 27-15-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-15-08. Report and Recommendations to Governor—Suggestion of Rules to Supreme Court.) The judicial council shall submit to the governor and the secretary of state not later than the first day of October of each even-numbered year a report as prescribed by subsection 6 of section 54-06-04 upon the work of the various branches of the judicial system of the state. The council may recommend to the governor or to the legislative assembly such measures as it shall deem advisable and from time to time may submit for the consideration of

the supreme court suggestions regarding rules of practice and procedure.

§ 29. **Amendment.)** Section 34-05-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

34-05-01. Statistics Relating to the Employment of Labor.) The commissioner of agriculture and labor shall collect, systematize, and present in biennial reports as prescribed by section 54-06-04 to the governor and secretary of state statistical details relating to the employment of labor in the state. The statistics may be classified as the commissioner of agriculture and labor deems best.

§ 30. **Amendment.)** Section 34-06-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

34-06-20. Biennial Report of Commissioner.) On or before the first day of October in each even-numbered year, the commissioner shall make a concise report as prescribed in section 54-06-04 to the governor and the secretary of state of his work and the proceedings under this chapter during the preceding two fiscal years.

§ 31. **Amendment.)** Section 36-01-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-01-11. Reports of Board.) On or before the first day of October in each even-numbered year, the state livestock sanitary board shall make a report as prescribed by subsection 6 of section 54-06-04 to the governor and the secretary of state of its proceedings and transactions during the two preceding fiscal years.

§ 32. **Amendment.)** Subsection 5 of section 37-03-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

5. Make a report as prescribed by subsection 6 of section 54-06-04 of his doings to the governor and the secretary of state on or before the first day of October in each even-numbered year which shall include a detailed statement of all the expenditures for military purposes during the preceding two fiscal years.

§ 33. **Amendment.)** Section 37-14-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-14-09. Records — Report to Governor and Secretary of State.) The veterans' aid commission shall keep full records

and files of all transactions, applications, advancements, and business of the commission and shall present a report as prescribed by subsection 6 of section 54-06-04 to the governor and the secretary of state containing a full and complete audit and report of all its business and the disbursements made from, and repayments made to, the veterans' aid fund during the preceding two fiscal years.

§ 34. Amendment.) Section 37-15-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-15-19. Reports of Board of Trustees to Governor and Secretary of State.) On or before the first day of October of each year preceding the regular session of the legislative assembly, the board of trustees shall make to the governor and the secretary of state a full and detailed report as prescribed by subsection 6 of section 54-06-04 of the disbursements of the home for the two preceding fiscal years and of its condition financially and otherwise.

§ 35. Amendment.) Section 38-03-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

38-03-12. Biennial Report of Inspector to Governor and Secretary of State—Contents.) On or before the first day of October in each even-numbered year, the inspector shall make a biennial report as prescribed in subsection 6 of section 54-06-04 to the governor and the secretary of state of his proceedings as such inspector and of the condition of each and every coal mine in this state. He shall describe in such report all accidents that have happened in or about each such mine and shall set forth all suggestions he may deem important as to further legislation on the subject of coal mines. The inspector may secure from the owners or operators of mines any information required to complete such report.

§ 36. Amendment.) Section 43-01-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-01-06. Board to Make Biennial Report.) The board shall make a biennial report to the governor and the secretary of state on or before the first day of October as prescribed by subsection 6 of section 54-06-04. Such report shall contain a statement of the receipts and disbursements of the board for the preceding biennium, a full statement of its doings and proceedings, and such recommendations as to it may seem proper for the better carrying out of the intents and purposes of this chapter.

§ 37. **Amendment.)** Section 43-02-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-02-06. Records of Board — Report to Governor and Secretary of State.) The board shall keep a complete record of all its proceedings and shall present to the governor and secretary of state on or before the first day of October of each even-numbered year a detailed report as prescribed by subsection 6 of section 54-06-04 of its receipts and disbursements during the preceding two fiscal years, with a statement of its acts and proceedings and such recommendations as it may deem proper.

§ 38. **Amendment.)** Section 43-04-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-04-19. Report to Governor and Secretary of State.) The board shall make a biennial report on or before the first day of October of each even-numbered year as prescribed by subsection 6 of section 54-06-04 to the governor and secretary of state. Such report shall contain the following:

1. A full statement of the receipts and disbursements of the board for the preceding two fiscal years;
2. A full statement of the doings and proceedings of the board for the preceding two fiscal years; and
3. Such recommendations as may seem proper, looking to the better carrying out of the purposes of this chapter.

§ 39. **Amendment.)** Section 43-09-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-09-05. Powers and Duties of State Electrical Board — Report.) The board shall adopt a seal and may make reasonable rules and regulations to carry out the provisions of this chapter. On or before the first day of October of each year preceding the regular session of the legislative assembly it shall file a biennial report as prescribed by subsection 6 of section 54-06-04 with the governor and the secretary of state showing all fees received and disbursements made, a list of all persons who have complied with the provisions of this chapter, and all action taken by the board under the provisions of this chapter during the preceding two fiscal years. The board shall appoint qualified inspectors, who shall within fifteen days after notice of completion of any electrical wiring installation involving a value of fifty dollars or more in municipalities having ordinances requiring such inspection, inspect such electrical installation and approve or condemn the same.

A report thereof shall be made on forms prescribed by the board.

§ 40. Amendment.) Section 43-10-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-10-08. Board to Report to Governor and Secretary of State.) The board on or before the first day of October of each even-numbered year shall make a report as prescribed by subsection 6 of section 54-06-04 to the governor and secretary of state containing a detailed statement of the nature of the receipts and the manner of the expenditures, and the balance of money remaining at the end of the preceding two fiscal years after the payment of all the necessary expenses.

§ 41. Amendment.) Section 43-13-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-13-09. Report to Governor and Secretary of State.) On or before the first day of October of each even-numbered year, the board shall make a biennial report of its proceedings to the governor and the secretary of state as prescribed by subsection 6 of section 54-06-04. The report shall contain an account of all moneys received and disbursed pursuant to this chapter and such other information as may be necessary to disclose the general proceedings of the board in carrying out the purposes and enforcing the provisions of this chapter during the period covered by the report.

§ 42. Amendment.) Section 43-15-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-15-12. State Board of Pharmacy—Report.) The board shall make a biennial report to the governor and secretary of state, and an annual report to the North Dakota pharmaceutical association rendering an account of all moneys received and disbursed by it. The report to the governor and secretary of state shall be due on or before the first day of October of each even-numbered year as prescribed by subsection 6 of section 54-06-04.

§ 43. Amendment.) Section 43-17-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-17-12. Board to Make Biennial Report to Governor and Secretary of State.) The board, on or before the first day of October of each even-numbered year, shall file with the governor and secretary of state as prescribed by subsection 6 of

section 54-06-04 a biennial report of all annual registration fees received and the disbursements made therefrom during the preceding two fiscal years.

§ 44. **Amendment.**) Section 43-19-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-19-10. Records and Reports.) The board shall keep a record of its proceedings and a register of all applications for registration. Such register shall show:

1. The name, age, and residence of each applicant;
2. The date of the application;
3. The place of business of such applicant;
4. The educational and other qualifications of the applicant;
5. Whether or not an examination was required;
6. Whether the applicant was rejected;
7. Whether a certificate of registration was granted;
8. The date of the action of the board; and
9. Such other information as may be deemed necessary by the board.

The records of the board shall be prima facie evidence of the proceedings of the board set forth therein, and a transcript thereof, duly certified by the secretary of the board under seal, shall be admissible in evidence with the same force and effect as if the original were produced. Biennially, on or before the first day of October of each even-numbered year as prescribed by subsection 6 of section 54-06-04, the board shall submit to the governor and secretary of state a report of its transactions of the preceding two fiscal years, and also shall transmit to them a complete statement of the receipts and expenditures of the board, attested by affidavits of its chairman and secretary.

§ 45. **Amendment.**) Section 43-23-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-23-02. Commission—Term—Duties—Records.) The members of the commission shall be appointed by the governor for a term of five years, staggered so the term of one member expires each year. At the expiration of the term of any member of the commission, the governor shall appoint a successor for a term of five years. In the event of a vacancy on the commission for any reason the governor shall appoint a member for the unexpired term of that member.

A majority of the commission, in meeting duly assembled, may perform and exercise all of the duties and powers devolving on the commission. The commission shall report biennially on or before the first day of October of each even-numbered year as prescribed by subsection 6 of section 54-06-04 to the governor and secretary of state, its receipts and expenditures and a full statement of its work during the year together with such recommendations as it may deem expedient.

The commission shall adopt a seal with North Dakota Real Estate Commission engraved thereon, by which it shall authenticate its proceedings. Copies of all records and papers in the office of the commission, duly certified and authenticated by the seal of such commission, shall be received in evidence in all courts equally and with like effect as the original.

§ 46. Amendment.) Section 43-28-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-28-09. Report to Governor and Secretary of State.) On or before the first day of October in each even-numbered year, the board shall make a report as prescribed by subsection 6 of section 54-06-04 of its proceedings during the preceding two fiscal years to the governor and the secretary of state. Such report shall contain an account of all moneys received and disbursed by the board during said time.

§ 47. Amendment.) Subsection 3 of section 46-02-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. The printing of voluntary reports made by any officers, departments, boards, commissions, and state institutions not required to be reported in addition to the printing and binding of the pamphlets which make up the public documents and the reports which make up the biennial reports of administrative agencies and boards, as prescribed by section 54-06-03, shall constitute the third class;

§ 48. Amendment.) Section 46-04-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

46-04-14. Secretary of State to Forward Laws to Counties.) As soon as the laws of each session of the legislative assembly are printed and ready for distribution, the secretary of state shall forward those to which each county is entitled to the county auditor of the county.

§ 49. Amendment.) Section 47-23-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

47-23-07. State Laboratories Department to Make Investigation — Report Results — Report Licenses Sold and Account for Funds.) The state laboratories department shall make investigations to determine the character of the products offered for sale in the state or shipped from this state under the North Dakota trade-mark. The information gathered shall be published as bulletins. The state laboratories department shall make a biennial report on or before the first day of October of each even-numbered year as prescribed by section 54-06-04 to the governor and the secretary of state accounting for all funds for the preceding two fiscal years and shall give a list of all products licensed, together with the name, address, and license number assigned.

§ 50. Amendment.) Section 49-01-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

49-01-13. Biennial Report to Governor and Secretary of State.) The commission, on or before the first day of October in each even-numbered year, shall make a report as prescribed by section 54-06-04 to the governor and the secretary of state of its doings for the preceding two fiscal years.

§ 51. Amendment.) Section 50-06-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-06-13. Biennial Report to Governor and Secretary of State.) The public welfare board biennially shall prepare and submit to the governor and the secretary of state a complete and full report as prescribed by section 54-06-04 which shall show:

1. Its activities during the preceding two years;
2. Such suggestions as it may deem necessary; and
3. Such other matters as it may think are for the benefit of the people of the state.

§ 52. Amendment.) Section 52-02-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

52-02-03. Bureau to Report Biennially to Governor and Secretary of State—Contents of Report—Recommendations by Bureau.) The bureau shall submit, not later than the first day of October of each even-numbered year, to the governor and secretary of state, a report as prescribed by section 54-06-04 covering the administration and operation of this title during the preceding two fiscal years, and shall make such recommendations for amendments to this title as it deems

proper. Whenever the bureau believes that a change in contribution or benefit rates shall become necessary to protect the solvency of the fund, it shall inform the governor and the legislative assembly promptly and make recommendations with respect thereto.

§ 53. Amendment.) Section 52-10-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

52-10-09. Studies and Reports.) The state agency shall submit a report as prescribed by subsection 6 of section 54-06-04 to the governor and the secretary of state on or before the first day of October of each even-numbered year, covering the administration and operation of this chapter for the preceding two fiscal years, including such recommendations for amendments to this chapter as it considers proper.

§ 54. Amendment.) Section 53-01-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

53-01-08. Commission—Biennial Report to Governor and Secretary of State.) The commission biennially shall make to the governor and secretary of state a full report as prescribed by subsection 6 of section 54-06-04 of its proceedings for the preceding two fiscal years, and may submit with such report such recommendations pertaining to its affairs as it shall deem desirable.

§ 55. Amendment.) Subsection 9 of section 54-09-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

9. Biennially report to the governor with copies filed in his office as prescribed by section 54-06-04 all moneys received from any source for services performed, and accompany such report with a detailed statement under oath of the manner in which the appropriations for his office have been expended during the preceding two fiscal years;

§ 56. Amendment.) Subsection 3 of section 54-10-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. Be responsible for the above functions and shall report thereon to the governor and secretary of state as prescribed by section 54-06-04 or more often as circumstances may require; and

§ 57. Amendment.) Subsection 12 of section 54-11-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12. Report to the governor and secretary of state, on or before the first day of October of each year as prescribed by subsection 3 of section 54-06-04, the exact balance in the treasury to the credit of the state. The report shall show in detail the receipts and disbursements, together with a summary thereof, the balances in the various funds at the beginning and ending of the fiscal year, and also shall show where the funds of the state are deposited. It shall be certified by the state treasurer and approved by the governor;

§ 58. **Amendment.)** Section 54-12-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-12-05. Report of Attorney General to Governor and Secretary of State.) The attorney general shall make a biennial report to the governor and the secretary of state as prescribed by section 54-06-04 on or before the first day of October of each even-numbered year, covering the business of his office to and including the thirtieth day of June last preceding. The report shall state:

1. The number, character, condition, and result of the actions prosecuted or defended by him in behalf of the state;
2. The cost of prosecuting or defending each action; and
3. The amount of fines and penalties collected.

He also shall direct attention to any defect in the practical operations of the law relating to revenue and criminal offenses, and shall suggest such amendments and changes as in his judgment are necessary to subserve the public interest.

§ 59. **Amendment.)** Section 54-15-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-15-08. Estimates Transmitted to the Legislative Assembly.) When the estimates for a state budget have been prepared by the state budget board, copies shall be filed with the secretary of state and shall also be transmitted to each member of the legislative assembly together with the recommendations of the board not later than the first day of December of the year preceding the meeting of the legislative assembly, together with such recommendations, reasons, and explanations with regard to the estimates as shall be deemed necessary by the state budget board. The board, in such estimates, shall not alter the amount requested by the judicial and legislative branches of government and their officers and agencies. The board, at the same time, shall transmit to the

legislative assembly all statements, estimates, and requests, or copies thereof, which were filed with the director of the department of accounts and purchases by officers, boards and commissions.

§ 60. Amendment.) Subdivision b of subsection 3 of section 54-15-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- b. To prepare and submit a biennial report, if he deems it necessary, to the state budget board at least sixty days prior to the commencement of the ensuing legislative session, which report shall contain definite and specific proposals and recommendations to accomplish the following purposes:
- (1) To simplify the entire governmental structure of the state so as to render it more economical and efficient;
 - (2) To eliminate all obsolete and unnecessary offices, departments, institutions, boards, bureaus and commissions of the state;
 - (3) To consolidate the functions, services and activities of all state offices and agencies thereof so as to eliminate duplication of service and expense wherever it exists;
 - (4) To correlate the functions and services of the several offices and agencies of the state government;
 - (5) To eliminate obsolete methods, unnecessary functions and services carried on by the state government and to render those functions and services which are determined to be absolutely essential, more economical and efficient;
 - (6) To assist the state budget board and legislative assembly in the preparation of the budget and the formulation of the public policy in the administration of governmental affairs with the objective of establishing the highest degree of efficiency consistent with the maximum degree of economy, to assure the citizens of this state that they will receive the best governmental service at the minimum possible cost.

§ 61. Amendment.) Section 54-17-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-17-06. Biennial Report of Commission.) The industrial commission shall prepare a biennial report as prescribed by subsection 6 of section 54-06-04 and file it in the office of the

governor and the secretary of state not later than the first day of October of each even-numbered year. The report shall contain an itemized account of its expenditures and a complete and detailed financial statement of each utility, industry, enterprise, and business project under its control, showing fully all items of income and disbursements and liabilities of every nature for the preceding two fiscal years. The report also shall set forth a list of all persons in the employ of the commission, with the name of each person drawing a salary under its authority, the amount of the salary, and all other emoluments received, and the fund from which drawn.

§ 62. **Amendment.)** Section 54-21-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-21-09. Report of Board of Administration to Governor and Secretary of State.) The board shall file a report as prescribed by section 54-06-04 on or before the first day of October in each even-numbered year with the governor and secretary of state, covering in detail the operations of the institutions under its control.

§ 63. **Amendment.)** Section 54-24-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-24-06. Records Kept by Commission — Report to the Governor and Secretary of State.) The state library commission shall keep statistics of the free public libraries of North Dakota and a record of the work done and books loaned by the commission. It shall make a full report as prescribed by subsection 6 of section 54-06-04 to the governor and secretary of state of all its expenditures and of such statistics and records as shall show:

1. The work done by the commission;
2. The use made of the traveling libraries; and
3. All other matters which it deems expedient.

§ 64. **Amendment.)** Section 54-36-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-36-06. Report and Recommendations.) The Indian affairs commission may submit their recommendations to the legislative assembly in the form of proposed legislation or resolutions and may make a report as prescribed by subsection 6 of section 54-06-04 to the governor and secretary of state.

§ 65. **Amendment.)** Subsection 7 of section 54-38-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

7. Report to the governor and the secretary of state biennially as prescribed by subsection 6 of section 54-06-04 incorporating such recommendations as it may deem advisable.

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

54-42-05. Biennial Report.) On or before the first day of October in every even-numbered year, the merit system council shall submit a biennial report as prescribed by subsection 6 of section 54-06-04 to the governor and the secretary of state and also to the state budget board of the activities of the merit system council and a complete statement of all expenditures of state and of federal funds by the merit system council.

§ 67. **Amendment.)** Subsections 15 and 16 of section 54-44-04 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

15. Shall report annually as prescribed by subsection 3 of section 54-06-04 to the governor and the secretary of state on or before the first day of October a statement of the funds of the state, the revenues of the state, and public expenditures during the preceding fiscal year;
16. Shall accompany his annual report with tabular statements showing the amount of each appropriation for the preceding fiscal year, the amount expended, and the balance, if any, and also the amount of revenue chargeable to each county for such year, the amount paid, and the amount unpaid or due therefrom;

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

54-46-11. Biennial Report.) The administrator shall make a biennial report as prescribed by subsection 6 of section 54-06-04 to the governor and secretary of state. The report shall describe the status and progress of programs established pursuant to this chapter and shall include the recommendations of the administrator for improvements in the management of records in the state government.

§ 69. **Amendment.)** Section 54-49-08 of the North Dakota Century Code Supplement is hereby amended and reenacted to read as follows:

54-49-08. Reports.) The council shall make a report as prescribed by subsection 6 of section 54-06-04, to the governor

and secretary of state of its findings and recommendations and such additional reports as may be required of it by the legislature or the legislative research committee. The council shall also report upon its findings and recommendations to council members as it is deemed advisable.

§ 70. Amendment.) Subsection 9 of section 57-01-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

9. Shall transmit to the governor and the secretary of state on or before the first day of October of each even-numbered year as prescribed by section 54-06-04 the report of the commissioner and state board of equalization, with such recommendations as shall seem advisable;

§ 71. Amendment.) Section 61-03-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-03-04. Report of State Engineer to Governor and Secretary of State—Contents.) On or before October first of the year preceding the regular session of the legislative assembly the state engineer shall prepare and deliver to the governor and the secretary of state as prescribed by subsection 6 of section 54-06-04 a full report of his office, including a detailed statement of the expenditures thereof, with such recommendations for legislation as he may deem advisable.

§ 72. Amendment.) Section 65-02-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

65-02-09. General Information to Public—Biennial Report of Bureau.) The bureau, from time to time may publish and distribute among employers and employees such general information as to the business transacted by the bureau as in its judgment may be useful. Biennially, on or before the first day of October, the bureau, under the oath of at least two of its members, shall make a report as prescribed by section 54-06-04 to the governor and the secretary of state for the preceding two fiscal years including:

1. A statement of the number of awards made by it;
2. A general statement of the causes of accidents leading to the injuries for which the awards were made;
3. A detailed statement of the disbursements from the fund;
4. A statement of the conditions of the various funds carried by the bureau; and

5. Any other matters which the bureau wishes to call to the attention of the governor, including any recommendation for legislation or otherwise which it may have to make.

§ 73. **Repeal.**) Sections 4-05-08.5, 4-05-09, 46-03-02, 46-04-11, and 46-04-13 of the North Dakota Century Code are hereby repealed.

Approved March 16, 1963.

CHAPTER 347

H. B. No. 862
(Brown)

STATE OFFICIALS' TRAVEL EXPENSE

AN ACT

To amend and reenact section 54-06-09 of the North Dakota Century Code, relating to travel expense of state officers and employees.

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

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

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

1. The sum of eight and one-half cents per mile for each mile actually and necessarily traveled within this state in the performance of official duty when such travel is by motor vehicle or by private airplane, but when any such motor vehicle or airplane is owned by the state or by any department or political subdivision thereof, no allowance shall be made or paid for such mileage;
2. When travel is by rail or certificated air taxi commercial operator or other common carrier, including regularly scheduled flights by airlines, the amount actually and necessarily expended therefor in the performance of official duties.

Before any allowance for any such mileage or travel expenses shall be made, the official, deputy, assistant, clerk, or other

employee shall file with the director of the department of accounts and purchases an itemized statement showing the mileage traveled, the days when and how traveled and the purpose thereof, verified by his affidavit. The statement shall be submitted to the state auditing board for approval and shall be paid only when approved by said board.

Approved March 2, 1963.

CHAPTER 348

S. B. No. 276
(Holand, Foss)

AUDITING BOARD MEMBERS AND DUTIES

AN ACT

To amend and reenact sections 54-14-02 and 54-14-03 of the North Dakota Century Code, providing that members of the state auditing board may appoint a deputy or substitute to act in their behalf when such members are unable to attend meetings of the auditing board and the state auditing board may delegate to the director of accounts and purchases authority to approve payments for payrolls, purchases, and other items deemed desirable.

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

§ 1. Amendment.) Section 54-14-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-14-02. Meetings of Board.) The state auditing board shall hold its meetings at the office of the director of the department of accounts and purchases or at such other place as the board may decide. Meetings shall be had at least monthly and at such other time as the board may deem necessary or advisable. Each member of the auditing board may appoint a deputy or substitute to serve in his stead at such meetings as he may be unable to attend.

§ 2. Amendment.) Section 54-14-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-14-03. Powers and Duties of State Auditing Board.) The state auditing board shall audit all claims, accounts, bills, or demands against the state, except those of state owned utilities, enterprises, and business projects, and such others as are specifically excepted by law. The board, in its discretion, may require the filing of any additional information which it

may deem necessary to the proper understanding and audit of any claim, account, bill, or demand against the state. It may require the filing of a sworn statement in such form as it may prescribe. The state auditing board may delegate to the director of accounts and purchases authority to approve payments for payrolls, purchases, and such other items as in their discretion they deem feasible and desirable. Any person or department aggrieved by the disallowance of a claim by the director of accounts and purchases under the authority delegated herein may appeal such disallowance to the auditing board, which may reverse or affirm the action of the director of accounts and purchases.

Approved March 16, 1963.

CHAPTER 349

S. B. No. 359

(Delayed Bills Committee)

(Holand)

BUDGET BOARD ORGANIZATION

AN ACT

To amend and reenact sections 54-15-01, 54-15-03, and 54-15-04 of the North Dakota Century Code, relating to the membership, organization, and compensation of the state budget board.

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

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

54-15-01. State Budget Board—Members—Vacancies—How Filled.) There shall be a state budget board which shall consist of the governor, the chairman of the appropriations committees of the senate and the house of representatives of the preceding legislative assembly, the state auditor, and the secretary of state. In addition, there shall be appointed by the speaker of the house of representatives five additional representatives, and by the lieutenant governor three additional senators to serve upon such board. Such additional representatives shall be appointed from lists of six names submitted to the speaker by each political party, and such additional senators shall be appointed from lists of five names submitted to the lieutenant governor by each political party. At least one of the appointees from each the senate and the house of

representatives shall be a member of the respective appropriations committees, and one of the appointees from the senate and two of the appointees from the house of representatives shall be members of the minority party. In case of inability on the part of any member of the legislative assembly to serve on the board, the vacancy shall be filled by the governor by appointment from the membership of the appropriations committee, or the political party as the case may be, of that branch of the preceding legislative assembly in which such vacancy occurs.

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

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

§ 3. Amendment.) Section 54-15-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-15-04. Budget Board Organization Meeting—Chairman—Vice Chairman—Secretary—Records.) The state budget board shall meet and organize in the governor's office at the state capitol at the call of the governor within thirty days after the close of each regular session of the legislature, and at such other times and places as the governor, or a majority of the board, may from time to time determine. The governor shall be chairman of the board, with a vice chairman to be elected by the membership of the board who shall serve in the absence of the governor, and the director of the department of accounts and purchases or such other member of that department as may be designated by him shall be its secretary. The secretary shall keep the minutes of the board and shall record them in a suitable book to be kept for that purpose. The minutes of the board shall be a public record and at all times shall be open to public inspection.

Approved March 21, 1963.

CHAPTER 350

H. B. No. 547

(Link, Brown, Saugstad, Knudsen, Aamoth, Anderson (McHenry))
(Fossum, Hauf, Backes, Miller)

(From LRC Study)

CANCELLATION OF UNEXPENDED APPROPRIATIONS

AN ACT

To amend and reenact section 54-27-09 of the North Dakota Century Code, relating to the cancellation of unexpended appropriations.

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

§ 1. **Amendment.**) Section 54-27-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-27-09. Department of Accounts and Purchases to Cancel Unexpended Appropriations—When They May Continue.) The department of accounts and purchases, thirty days after the close of each biennial period, shall cancel all unexpended appropriations or balances of appropriations, which shall have remained undrawn after the expiration of the biennial period during which they became available under the law. Two members of the legislature serving on the budget board with the auditing board may continue appropriations or balances in force for new construction projects and for major repair or improvement projects for not more than two years after the expiration of the biennial period during which they became available upon recommendation of the department of accounts and purchases.

§ 2.) The provisions of this Act shall not apply to the appropriations made for buildings in section 5 of chapter 1 of the 1961 Session Laws.

Approved February 18, 1963.

CHAPTER 351

H. B. No. 651

(Christopher, Paulsen, Schaffer, Collette, Mueller, Burk, Vendsel)
(Lowe, Dornacker, Opedahl, Unke)

STATE PLANNING AGENCY

AN ACT

Creating a state planning agency in the office of the director of economic development who shall be director of state planning; creating a state planning fund; providing for assistance to the state director of planning; authorizing regional and metropolitan planning commissions; establishing powers and duties of such office, director, and commissions and providing for acceptance of federal aid.

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

§ 1. Definitions.) In this Act, unless the context or subject matter otherwise requires the term "planning agencies" shall mean and include the departments, agencies, instrumentalities of the federal, state, county, township, or municipal governments engaged in planning activities, including regional and metropolitan planning agencies as authorized herein, and educational institutions, research organizations, whether public or private, civic groups, and private persons and organizations engaged in planning activities.

§ 2. State Planning Agency Created.) In order to promote the health, safety and general welfare of the citizens of this state, there is hereby created a state planning agency headed by the director of economic development who shall also be known as the director of state planning.

§ 3. State Planning Agency—Purposes.) It shall be the purpose of the state planning agency to advise, consult, coordinate, assist, and contract with or on behalf of the various planning agencies in developing and harmonizing the planning activities of this state. Nothing in this Act shall operate in derogation of planning powers conferred upon departments, agencies or instrumentalities of state, counties, townships or municipal corporations, by any existing state or local law.

§ 4. State Planning Agency—Powers and Duties.) The state planning agency shall:

1. Prepare plans for the physical development of this state;
2. Inform, advise, assist, cooperate with, and contract with or on behalf of the various planning agencies;

3. Accept and receive funds, grants and services from the various planning agencies; and
4. Act as fiscal agent for or on behalf of any of the planning agencies;
5. Advise, study, recommend and report to the governor and legislative assembly on all phases of state and local planning;
6. Coordinate the planning activities of the various agencies;
7. Exercise all powers necessary and proper for the discharge of its duties.

§ 5. State Planning Fund—Maintaining and Administering—What Constitutes.) A special fund, separate and apart from all public moneys or funds of this state, and known as the state planning fund, is hereby created and shall be maintained in the state treasury and shall be administered by the state planning agency exclusively for the purpose of this Act. All moneys which are deposited or paid into this fund are appropriated and made available to the state planning agency. The fund shall consist of all moneys appropriated by this state, and all moneys received from the United States of America, or any agency thereof, or from any county, township, municipal corporation or other political subdivision of this state, or from any other source, for such purpose. All moneys in this fund shall be deposited, administered, and disbursed in the manner and under the conditions and requirements provided by law for other special funds in the state treasury. Any balances in this fund, except moneys appropriated by the legislative assembly, shall not lapse at any time, but shall be available continuously to the state planning agency for expenditure consistent with this Act.

§ 6. Director—Powers and Duties.) The director shall be responsible for the operation of such agency and shall exercise all other duties necessary and proper for the discharge of the duties of such agency.

§ 7. Economic Development Commission to Assist in Planning.) The economic development commission shall advise and assist the director of planning in the performance of the duties of the state planning agency.

§ 8. Assistance to Metropolitan, Regional or Local Planning Agencies—Application of Federal Funds in Aid of Local Planning Activities.) The state planning agency may render financial or other planning assistance to any governmental planning agency. Such assistance may be conditioned on contributions by the planning agency which requests such assistance, but in any case in which funds or services are

requested and received by the state planning agency from any federal agency for planning assistance to such agencies the condition imposed by federal law or regulation shall be carried out.

§ 9. Grants to Planning Commission—Right to Contract.)

The state planning agency or any governmental planning agency is authorized to apply for, accept and expend grants from any other planning agency as defined herein for the purpose of this Act, and to contract with reference thereto.

§ 10. Creation of Regional and Metropolitan Planning Areas—Agreement for Regional and Metropolitan Planning.)

Two or more governmental planning agencies may by agreement establish a regional and metropolitan planning commission. A regional planning area shall consist of one or more adjoining townships and/or counties or parts thereof which have common problems and interests. A metropolitan planning area shall be a regional planning area consisting of one or more municipal corporations and the territory adjacent thereto, which are so interdependent as to form a unit for planning purposes. Such agreement shall include the number and qualifications of the members of any such commission and the terms and method of appointment or removal of such members.

§ 11. Regional or Metropolitan Planning Commission — Powers and Duties.)

By such agreement such joint planning commission may be given the authority to exercise any or all the powers and functions conferred by state law upon either or any or all the parties to such agreement, including the power to establish and enforce zoning regulations within the joint planning area.

§ 12. Regional or Metropolitan Plans — How Made Effective.)

The governing bodies of each planning agency entering into an agreement for joint regional or metropolitan planning shall make such regional or metropolitan plan or plans or any revision, amendment, extension, or addition thereto effective by following substantially the form of procedure required by law to make effective any local planning within such planning agency. When each such agency has complied with such laws and all the governing bodies of such agencies have adopted such plan and filed the same with regional or metropolitan planning commission and with the governing body of each agency which is a party thereto such plan shall become effective.

§ 13. Regional or Metropolitan Development Plan—Filing — Distribution.)

Upon the preparation of the regional or metropolitan development plan or of any phase or functional

part thereof, or upon the preparation of an amendment or revision of the plan or of any part thereof, or upon the preparation of any extension of or addition to the plan, the regional or metropolitan planning commission shall file such plan, part of a plan, amendment, revision, extension or addition in the office of the director of state planning and with the other planning agencies in adjoining areas.

§ 14. Local Governments and Planning Agencies Filing of Plans and Reports — Submission of Proposals.) To facilitate effective and harmonious planning of the regional or metropolitan area, all planning agencies shall file with the appropriate regional or metropolitan planning commission, for its information, all plans, zoning ordinances, official maps, building codes, subdivision regulations, or amendments or revisions of any of them, as well as copies of their regular and special reports dealing in whole or in part with planning matters. County, township or municipal legislative bodies, or county, township, municipal or other local planning agencies may also submit proposals for such plans, ordinances, maps, codes, regulations, amendments or revisions prior to their adoption, in order to afford an opportunity to the regional or metropolitan planning commission to study such proposals and to render its advice thereon.

§ 15. Federal, State and Local Aid to Regional and Metropolitan Planning Commissions.) Any planning agency may request and accept grants of funds or services from the federal government or any other planning agency.

Approved March 14, 1963.

CHAPTER 352

S. B. No. 188

(Holand, Longmire, Redlin, Kee)

LEGISLATIVE AUDIT AND FISCAL REVIEW COMMITTEE

AN ACT

Providing for a legislative committee on audits and fiscal review, defining its organization, powers, and duties, making an appropriation, and creating section 54-14-03.1 of the North Dakota Century Code, relating to reports by the auditing board.

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

§ 1. Committee on Audits and Fiscal Review.) For the purpose of studying and reviewing the financial transactions of this state; to assure the collection and expenditure of its revenues and moneys in compliance with law and legislative intent and sound financial practices; and to provide the legislative assembly with formal, objective information on revenue collections and expenditures to provide a basis of legislative action to improve the fiscal structure and transactions of this state, there shall be a committee on audits and fiscal review, hereafter referred to as the "committee". The committee shall consist of the lieutenant governor as chairman, four members of the house of representatives, and three members of the senate. The members shall be appointed in the same manner and for the same terms as provided for members of the legislative research committee in section 54-35-01, except that each political faction shall be required to submit a list of only five members to the respective presiding officers, and except that at least one member of the respective appropriation committees of each house of the legislative assembly shall be appointed to the committee. Vacancies between sessions shall be filled in the same manner as vacancies upon the legislative research committee as provided in section 54-35-01.

§ 2. Powers and Duties.) It shall be the duty of the committee to study and review audit reports submitted by the state auditor, confer with the auditor and deputy auditors in regard to such reports, and when necessary to confer with representatives of the department, agency, or institution audited in order to obtain full and complete information in regard to any and all fiscal transactions and governmental operations of any department, agency, or institution of the state. Each department, agency, or institution shall furnish to the committee such aid, information, and assistance in regard to fiscal transactions and governmental operations as

it may from time to time request. The committee, through its members or such persons as may be directed or employed by it, shall be authorized, within the limits of legislative appropriations, to make such additional or supplemental audits, examinations, or studies of the fiscal transactions or governmental operations of departments, agencies, or institutions of the state as it may deem necessary.

§ 3. Meetings—Quorum—Officers.) The committee, or any subcommittee composed of members of the committee, may meet at such time and place as it may deem desirable, but the committee shall meet at least once in each quarter year. All meetings shall be held at the call of the chairman or a call signed by four members of the committee. At any meeting five members shall constitute a quorum, and a majority of such quorum shall have authority to act in any matter falling within the jurisdiction of the committee. The committee may prescribe its own rules of procedure.

The committee shall select a vice chairman who shall carry out the duties of the chairman during his absence or inability to act. It may make arrangements with the legislative research committee for the provision of clerical assistance and for assistance in drafting any legislation it may recommend.

§ 4. Reports and Recommendations.) The committee shall prior to each session of the legislative assembly, and at such other times as it deems necessary, make a report to the governor and members of the legislative assembly in regard to its activities, findings, and recommendations, and shall prepare suitable legislation to carry out such recommendations for the consideration of the legislative assembly.

§ 5. Compensation of Members.) The chairman and members of the committee shall be compensated for their service on the committee in the same manner and at the same rate as provided for members of the legislative research committee in section 54-35-10.

§ 6. Appropriation.) There is hereby appropriated, out of any moneys in the state treasury not otherwise appropriated, the sum of \$12,900.00, or so much thereof as may be necessary, to the committee on audits and fiscal review, for the purpose of carrying out its duties under this Act for the biennium beginning July 1, 1963, and ending June 30, 1965.

§ 7.) Section 54-14-03.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

54-14-03.1. Reports to Committee on Audits and Fiscal Review.) It shall be the duty of the state auditing board, in

the course of the pre-audit of claims against the state, or in otherwise carrying out its duties, to note irregularities in the fiscal practices of the state and its departments, agencies, and institutions and areas where more uniform and improved fiscal procedures are desirable, and it shall further note expenditures and governmental activities that the board or its members may believe to be contrary to the intent of law or the intent of the legislative assembly. The board or its individual members shall regularly report such matters to the committee on audits and fiscal review.

Approved March 15, 1963.

CHAPTER 353

H. B. No. 572

(Brown, Stockman, Neukircher, Lowe, Mueller, Vendsel)

JOINT EXERCISE OF GOVERNMENTAL FUNCTIONS

AN ACT

To provide that any municipality or political subdivision thereof may enter into agreements with one another or with the county in which they are located for joint or cooperative projects.

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

§ 1. Joint Functions—Who May Participate.) Any municipality or political subdivision of this state upon approval of their respective governing bodies may enter into agreements with one another for joint or cooperative action, on a cost-sharing basis, or otherwise, to carry out any function or duty which may be authorized by law or assigned to one or more of them, and to expend funds of such municipality or political subdivision pursuant to such agreement, and otherwise share or contribute property in accordance with such agreement in jointly or cooperatively carrying out such function or duty.

Approved March 8, 1963.

CHAPTER 354

H. B. No. 829

(Diehl, Wastvedt, Poling, Johnston)

COUNTY RECORDS MANAGEMENT

AN ACT

To provide for a uniform system of retaining and disposing of county records to be promulgated by the secretary of state.

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

§ 1. County Records — Uniform System Established by Secretary of State.) On or before July 1, 1965, the secretary of state shall promulgate rules and regulations consistent with specific requirements of state law for a uniform system of cataloguing, reproducing, retaining, and disposing of county records. Upon promulgation of such rules and regulations all county offices, departments, and agencies shall be authorized to establish and maintain such uniform system as prescribed by the secretary of state. The secretary of state may, from time to time, revise such rules and regulations as he deems necessary.

Approved March 9, 1963.

CHAPTER 355

S. B. No. 149

(Becker, Chesrown, Kautzmann, Sinner)

PEACE OFFICERS' COMMISSION

AN ACT

To establish a commission on peace officers' standards and training, to provide for the appointment of a director and other employees, to provide for the establishment of standards and curriculum for peace officers' school and making an appropriation therefor.

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

§ 1. Commission on Peace Officers' Standards and Training — Purpose.) There is hereby created the commission on peace officers' standards and training, which shall provide courses of instruction not to exceed two weeks in duration at convenient location in the state, for training peace officers in

their powers and duties, in the use of approved equipment, in police traffic supervision, youth correction, and in the latest techniques for detection, identification, and apprehension of criminals.

§ 2. Officers—Compensation—Expenses.) The members of such commission shall be the officer in charge of the North Dakota state bureau of criminal identification as chairman, the president of the North Dakota peace officers' association, and one member appointed by the dean of the University of North Dakota law school for a term of one year. Meetings shall be held at the call of the chairman or upon request of any two members. Each member of the commission, except the chairman, shall be paid at the rate of twenty-five dollars for attendance at each meeting, regardless of the length of the meetings, not to exceed six meetings per year. In addition, all members of the commission shall receive the mileage and travel expenses in the same manner and at the same rates as other state officials.

§ 3. Membership Not Grounds for Disqualification.) No member of the commission shall be disqualified from holding any public office or employment, nor shall he forfeit any such office or employment by reason of his membership on the commission, notwithstanding the provisions of any general, special or local law, ordinance or city charter.

§ 4. Director — Employees.) The director of the peace officers' school shall be the director of the bureau of criminal identification. The director may appoint such officers, employees, agents and consultants as he may deem necessary, prescribe their duties, fix their compensation and provide for reimbursement of their expenses within the limits of legislative appropriation, subject to the approval of the commission. Membership on the commission shall not preclude such person from being so appointed an officer, employee, agent or consultant.

§ 5. Course of Instruction.) The director shall prepare not later than November 1, 1963, and not later than August first of each year thereafter, a written schedule of subject material, the scheduled instructors for each subject, and the time and place for each subject presentation for the following calendar year. This material shall be submitted to the commission, and may be approved or disapproved by a majority vote of the commission within thirty days, and if disapproved, shall be revised and resubmitted to the commission for their review in like manner.

§ 6. Rules and Regulations.) The commission may adopt rules and regulations for the guidance and operation of such

school, and among other things, may provide for rules and regulations governing the following:

1. Admission and eligibility;
2. Maximum and minimum hours of training per officer, with differentiation provided for the first twelve months and succeeding year of service;
3. Charges for board and room;
4. Rating, reporting, attendance and other records, and certificates of attendance and completion; and
5. Such other matters as necessary.

§ 7. Donations, Contributions, Grants or Gifts.) The commission may accept any donations, contributions, grants or gifts from private individuals or foundations or the federal government and the proceeds thereof shall become the property of the state of North Dakota, and shall be deposited with the state treasurer, and are hereby appropriated to the commission for carrying out the provisions of this Act.

§ 8. Student Records.) The director of the school shall cause to be maintained daily attendance records of all those persons enrolled for classes. In the event any officer is absent for eight hours in any day, a written report shall be sent to his employing authority within forty-eight hours. In all other cases, an accurate record shall be made for each student, and a complete report of attendance for each person shall be sent to his employing authority within thirty days after completion of the prescribed course, together with his achievement grades. Such other records, reports and certificates shall be provided in accordance with the rules and regulations of the commission.

§ 9. Eligibility for Attendance.) Any officer or employee of the state of North Dakota involved in law enforcement, except licensed attorneys, any police officer or elected or appointed peace officer of any county or municipality of the state of North Dakota, and such other persons as by the rules and regulations promulgated by the commission may qualify, shall be eligible to attend such training courses as herein provided, in accordance with and subject to the rules and regulations of the commission.

All peace officers of any county or municipality employed at the effective date of this Act shall attend such training courses within two years after the effective date of this Act. All peace officers of counties or municipalities elected or employed after the effective date of this Act shall attend such training courses within a period of one year after the date he qualifies for office or the date of his employment as a peace officer.

The commission may in its discretion exempt any person from the required training program when it is shown that such person has previously received the equivalent of such training program.

§ 10. Tuition — Student Expenses.) No tuition shall be charged any police officer, sheriff, state employee, or other person who qualifies for attendance at any training school herein provided for. Each state, county, or municipal employee, while in attendance at such school, shall receive his regular salary, and may be reimbursed by the employing authority at his discretion for his cost of meals, travel and lodging while in attendance at the school.

§ 11. Appropriation.) There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of ten thousand dollars, or so much thereof as may be required, to be expended during the biennium ending June 30, 1965, to carry out the provisions of this Act.

Approved March 18, 1963.

CHAPTER 356

S. B. No. 210

(Roen, Lips, Sorlie, Trenbeath, Chesrown, Brooks, Meidinger)

GIRL SCOUTS ROUND-UP COMMISSION

AN ACT

To create a Girl Scouts Round-Up Commission for the purpose of encouraging and aiding the Girl Scouts of the United States of America to hold their 1965 Round-Up in North Dakota, making an appropriation therefor, and declaring an emergency.

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

§ 1. Legislative Intent.) The public policy of the state is declared to be that to foster, promote, and protect opportunities for economic security and growth, individual rights and enterprise, develop tourist attractions and increase travel by non-residents to our state, promote the prosperity and general welfare of all of the people of our state, the accomplishment of which, among other things, requires and demands the establishment of a Girl Scouts Round-Up Commission for the purpose and with the object of encouraging and promoting a site within North Dakota, to be selected by the Girl Scouts of the United States of America, in the year 1965.

§ 2. Girl Scouts Round-Up Commission Members.) There is hereby created the Girl Scouts Round-Up Commission which shall consist of the governor as chairman, a co-chairman who shall be the president of the Theodore Roosevelt National Memorial Park and Badlands Association, and such additional members as the governor may appoint. Members of the commission shall serve without pay or expense remuneration.

§ 3. Girl Scouts Round-Up Commission—Meetings—Legal Advisor.) Meetings of such commission shall be at times and places selected by the chairman. The attorney general shall act as legal advisor to the commission or designate an assistant for that purpose.

§ 4. Girl Scouts Round-Up Commission—Powers and Duties.) In the administration of this Act, the commission shall have the following powers, authority, and duties.

1. To publish and disseminate reliable information on the desirability of North Dakota for the 1965 Girl Scouts of the United States of America Round-Up;
2. To contact and cooperate with any person, firm, corporation, association, or with any local, state, or federal department or agency for executing and carrying on a program or programs of research, education, and publicity in connection with the 1965 Girl Scouts of the United States of America Round-Up;
3. To lease, purchase, own, equip, maintain, and operate a commission office;
4. To request such information, aid, and assistance as may be deemed necessary from any department, agency, or institution of this state, and such departments, agencies, and institutions are directed to cooperate with such commission to the maximum extent practical and feasible. The state highway department is specifically directed to cooperate with such commission in the construction and maintenance of access routes and campsite development and construction; the state water commission is directed to cooperate in locating and testing for adequate ground water supplies; and the national guard is directed to cooperate in all ways within its capabilities in the development, construction, and maintenance of facilities which includes acting as security officers to guard Girl Scout equipment and supplies for sixty days before, the two weeks during, and fifteen days after, the encampment. The highway department is hereby authorized to expend funds from the state highway construction fund for such purposes, and the state water commission and the national guard

are hereby authorized to expend such funds as may be available to such agencies for such purposes.

5. To appoint, employ, bond, discharge, fix the compensation and prescribe the duties of such administrative, clerical, technical and other personnel, employees, and agents as it may deem necessary to conduct the business and affairs of the commission;
6. To accept donations of funds, property, and services or other assistance, financial or otherwise, from federal, state, and other public or private sources for the purpose of aiding and promoting the work and objectives of the commission, depositing all funds so received in the Girl Scouts Round-Up Commission fund in the state treasury, and such are hereby appropriated to the commission to carry out the provisions of this Act and the purposes of the donors.

§ 5. Girl Scouts Round-Up Commission Appropriation.)

There is hereby appropriated out of any moneys in the general fund of the state treasury, not otherwise appropriated, the sum of fifteen thousand dollars to the Girl Scouts Round-Up Commission to carry out the provisions of this Act during the period beginning July 1, 1963, and ending September 30, 1965.

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

Approved March 16, 1963.

CHAPTER 357

S. B. No. 126
(Baker, Longmire)

SALE OF EMPLOYMENT SERVICE PROPERTY, GRAND FORKS

AN ACT

Authorizing the state of North Dakota acting by its North Dakota workmen's compensation bureau for the North Dakota state employment service to sell and convey the westerly or front one hundred forty feet of lot fourteen, in block thirty-two, town of Grand Forks, according to the plat thereof on file and of record in the office of the register of deeds of said county and state and recorded in book "A" of deeds, on page twenty-two, in Grand Forks County, North Dakota.

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

§ 1.) The state of North Dakota acting by its North Dakota workmen's compensation bureau for the North Dakota state employment service is hereby authorized to sell and convey the westerly or front one hundred forty feet of lot fourteen, in block thirty-two, town of Grand Forks, according to the plat thereof on file and of record in the office of the register of deeds of said county and state and recorded in book "A" of deeds, on page twenty-two, in Grand Forks County, North Dakota.

§ 2.) The workmen's compensation bureau may cause the above described land to be sold in the manner prescribed by sections 54-01-05.1 and 54-01-05.2. Proceeds from such sale shall be used only for acquisition and purchase of real property in Grand Forks, Grand Forks County, North Dakota as authorized and provided for in section 52-02-16 of the North Dakota Century Code.

Approved March 4, 1963.

CHAPTER 358

S. B. No. 133
(Longmire, Baker)

SALE OF EMPLOYMENT SERVICE PROPERTY, MINOT

AN ACT

Authorizing the state of North Dakota acting by its North Dakota workmen's compensation bureau for the North Dakota state employment service to sell and convey the lots six and seven of block eleven, Brooklyn Addition to the city of Minot, Ward County, North Dakota.

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

§ 1.) The state of North Dakota acting by its North Dakota workmen's compensation bureau for the North Dakota state employment service is hereby authorized to sell and convey the lots six and seven of block eleven, Brooklyn Addition to the city of Minot, North Dakota, in Ward County, North Dakota at such price as may be determined by said bureau to be adequate and proper in the light of the cost thereof and of the improvements thereto.

§ 2.) The workmen's compensation bureau may cause the above described land to be sold in the manner prescribed by sections 54-01-05.1 and 54-01-05.2. Proceeds from such sale shall be used only for acquisition and purchase of real property in Minot, Ward County, North Dakota as authorized and provided for in section 52-02-16 of the North Dakota Century Code.

Approved March 4, 1963.

CHAPTER 359

S. B. No. 235

(Baker, Reichert, Brooks)

SALE OF BOARD OF HIGHER EDUCATION LANDS

AN ACT

To authorize the state board of higher education to sell its interest in certain lands to the state highway department for use as a radio tower site and access road and highway rights-of-way.

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

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

For a radio tower site and access road to such tower site:

A portion of the northwest quarter of the northwest quarter of section eleven, township one hundred and fifty-four north, range eighty-three west.

For a highway right-of-way:

A portion of the northeast quarter of section eleven and a portion of the northwest quarter of section twelve all in township one hundred and fifty-four north, range eighty-three west.

For a highway right-of-way:

A portion of section five, township one hundred and thirty-nine north, range ninety-six west; also a portion of the south one-half of section thirty-two, township one hundred and forty north, range ninety-six west.

For a highway right-of-way:

A portion of the west one-half of section twenty-six; a portion of the northeast quarter and southeast quarter of section twenty-seven; a portion of the west one-half of section thirty-five, north of the railroad right-of-way, and a portion of the northeast quarter of section thirty-four, all in township one hundred and forty north, range forty-nine west.

All necessary documents to accomplish the transfer of the above described lands may be executed by the governor and attested by the secretary of state upon the payment of fair market value for the lands transferred, from the state

highway fund to the institutional income account of the agricultural experiment station, North Dakota state university of agriculture and applied science.

Approved March 4, 1963.

CHAPTER 360

S. B. No. 326

(Brooks, Wadeson, Sinner)

QUITCLAIM DEED TO FARGO FAIRGROUNDS

AN ACT

To authorize the execution of quitclaim deeds to certain property owned at one time by the North Dakota state fair association for Fargo, and possibly subject to a reversionary interest.

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

§ 1. Land Transfer Authorized.) It appearing that the North Dakota state fair association for Fargo, in the year 1905 did convey to the state of North Dakota, pursuant to chapter 46 of the 1905 Session Laws of the state of North Dakota, that tract of land owned by such association and described as:

The north half of the northwest quarter of section thirty-one (31) in township one hundred forty (140) north of range forty-eight (48) west of the fifth principal meridian in the county of Cass and state of North Dakota; and it further appearing that the deed conveying such land contained a reversionary clause running in favor of such fair association should the state of North Dakota ever fail to appropriate money for fair purposes, and that no such appropriation has been made since the 1931 legislative session; and it further appearing that the land has, since the date of conveyance, passed into the hands of a number of grantees and been used for a variety of beneficial purposes, and that such fair association has ceased to exist and has not for many years attempted to use or exercise any control over said land, now therefore: the governor and the secretary of state on behalf of the state of North Dakota are hereby authorized in accordance with the provisions of section 54-01-05.1, upon receipt of the sum of twenty-five dollars, to execute such quitclaim deeds as may be necessary for the purpose of disclaiming and quitclaiming all right, title, and interest which the state of North Dakota may possess in the above described property and thus curing the titles of the present record owners of such property.

Approved March 6, 1963.

CHAPTER 361

S. B. No. 357
(Committee on Delayed Bills)

EASEMENT TO CITY OF MINOT

AN ACT

To grant the city of Minot, North Dakota, a perpetual underground easement for storm sewer purposes across the property of the state of North Dakota Normal School in the city of Minot, North Dakota, and declaring an emergency.

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

§ 1.) A perpetual easement for the installation and maintenance of an underground storm sewer utility line is hereby granted to the city of Minot, North Dakota, a municipal corporation, across the following described property owned by the state of North Dakota Normal School:

The south 469.2 feet of the east 660 feet of the northwest quarter of the northeast quarter of section 14, township 155 north, range 83 west.

The south 469.2 feet of the west 222 feet of the northeast quarter of the northeast quarter of section 14, township 155 north, range 83 west.

The east one-half of the southwest quarter of the northeast quarter of section 14, township 155 north, range 83 west.

The west 222 feet of the southeast quarter of the northeast quarter of section 14, township 155 north, range 83 west.

§ 2.) The North Dakota board of higher education is hereby authorized to negotiate with the city of Minot for the exact legal description of the above described easement. Such easement shall be for a strip of land lying sixteen and one-half feet on either side of the centerline of said pipeline. Centerline shall be determined by proper survey and approved by said board of higher education and upon such approval the easement hereby granted shall be limited to such specific description so approved and not to the remainder of the property described in section one hereof.

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

Approved March 15, 1963.

CHAPTER 362

H. B. No. 570
(Johnson)

EASEMENT TO CITY OF VALLEY CITY

AN ACT

Authorizing an easement over certain property owned by the state of North Dakota and under the control of the board of higher education to the city of Valley City for the construction of power transmission lines, and to repeal chapter 144 of the 1959 Session Laws authorizing the board of higher education to lease property to the Valley City Development Corporation.

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

§ 1.) Authorization is hereby granted for the conveyance of an easement to the city of Valley City for the purpose of construction of power transmission lines by the Valley City Municipal Utilities over certain property owned by the state of North Dakota and under the control of the state board of higher education, said property described as follows:

A strip of land twenty feet, ten feet on either side of a center line more particularly described as follows: Beginning at a point on the north line of lot one, block seven, Andrus and Siftons Addition to Valley City, North Dakota which is 68.8 feet west of the northeast corner of this lot; thence by an angle of 83°09' to the left a distance of 60.1 feet; thence by an angle of 12°44' to the right a distance of 124.6 feet; thence by an angle of 60° to the right a distance of 252.0 feet; thence by an angle of 3°22' to the right a distance of 352.0 feet; thence by an angle of 78°08' to the left a distance of 131.2 feet; thence by an angle of 73°39' to the right a distance of 212.0 feet; thence by an angle of 71°45' to the left 141.0 feet; thence by an angle to the right of 89° a distance of 455.0 feet; thence by an angle of 2°38' to the left a distance of 230.0 feet more or less to a point on the east line of Fourth Avenue Southwest in the city of Valley City, North Dakota which is 227.0 feet south of the northwest corner of lot one, block six of said Andrus and Siftons Addition,

subject to the right of reversion in the grantor in case the easement granted is not used for said purpose or is abandoned.

§ 2. **Repeal.**) Chapter 144 of the 1959 Session Laws is hereby repealed.

Approved February 18, 1963.

CHAPTER 363

H. B. No. 583

(Reimers, Ganser, Christensen (Ward), Lindberg)

EXCHANGE OF STATE LAND IN STUTSMAN COUNTY

AN ACT

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

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

§ 1.) It having been discovered that a misdescription of certain lands occurred in House Bill 717* of the Thirty-seventh Legislative Assembly and in the conveyance executed pursuant to said bill, whereby certain lands were conveyed to the Stutsman County soil conservation district by the board of administration on behalf of the state of North Dakota for a consideration of five hundred dollars which has been paid, the board of administration is hereby authorized to cause to be conveyed to the Stutsman County soil conservation district in accordance with the provisions of section 54-01-05.1, that tract of land containing approximately six acres described as follows:

All of that portion of land in the northeast quarter of section six, township one hundred thirty-nine north, range sixty-three west, lying southwesterly of the Northern Pacific Railway right-of-way, northerly of the interstate highway 94 right-of-way, and northeasterly of the Midland Continental Railway right-of-way; excepting county road and section line right-of-way.

§ 2.) In consideration for such conveyance, the Stutsman County soil conservation district shall convey to the state highway department on behalf of the state of North Dakota, that portion of highway right-of-way erroneously received containing approximately seven acres described as follows:

That land lying in section six, township one hundred thirty-nine north, range sixty-three west, beginning at a point 1706.21 feet north eighty-nine degrees fifty-six minutes west and 33.0 feet south of the northeast corner of said section six, thence running north eighty-nine degrees fifty-six minutes west 612.3 feet, thence south sixty-three degrees forty-three minutes east 450.0 feet, thence south twenty-six degrees forty-nine minutes west 764.7 feet, thence south seventy-three degrees fifty

*Note: Chapter 328 of the 1961 Session Laws.

minutes west 2278.0 feet, thence north sixteen degrees ten minutes west 125.0 feet, thence south seventy-three degrees fifty minutes west 634.7 feet to a point on the west line of said section six, thence south along the section line 598.7 feet, thence north seventy-three degrees fifty minutes east 801.4 feet, thence north sixteen degrees ten minutes west 150.0 feet, thence north seventy-three degrees fifty minutes east 2063.22 feet, thence south eighty-three degrees thirty-five minutes east 475.0 feet, thence south fifty-eight degrees thirty-seven minutes east 600.0 feet to a point, thence due east to a point on the westerly right-of-way line of the Midland Continental Railway, thence northwesterly along said right-of-way line to the point of beginning.

In the event that the Stutsman County soil conservation district shall cease to exist, the land described in section 1 of this Act shall revert to the state of North Dakota.

Approved March 2, 1963.

CHAPTER 364

H. B. No. 702

(Johnston, Wagner, Brown)

QUITCLAIM DEED TO BAPTIST HOME

AN ACT

To authorize the conveyance of certain described property to the Baptist Old Peoples Home Society of the Dakota Conference, of Bismarck, North Dakota.

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

§ 1. Legislative Policy.) It is hereby determined that the state of North Dakota has an apparent interest of record in property which is hereinafter described, but that no claim based upon such interest, if any, has ever been made by the state of North Dakota and the state apparently has never used the land for any purpose. It is further determined that in 1883, the capitol commission established by the Dakota Territorial Legislature caused to be platted an area which was known as Capitol Park until the vacation thereof by the Act of the Thirty-fourth Legislative Assembly in 1955 and that said plat omitted an eighty foot strip on the east side thereof, a part of which is the area hereinafter described. It moreover is determined that, by error in deeds and platting including therein all land in such section located to the east of Capitol

Park, said strip of land has come to be included as a part of said replat and a subsequent purchaser, the Baptist Old People's Home Society of the Dakota Conference, of Bismarck, North Dakota, has acquired such property, for good and valuable consideration, in the belief that their title was good in law. It further has been determined that the area at the time of said replat was uncultivated prairie land of little value, but that such area now constitutes the west eighty feet of property upon which a valuable old people's home has been constructed in which a number of our senior citizens have innocently and in good faith established their residences. For these reasons, and because the interest of the state of North Dakota, if any, has come about through the original omission of this strip of land from the plat of Capitol Park, and because the legislative assembly, in chapter 338 of the 1957 Session Laws corrected this omission as it affected private property owners to the north of the property in question, the legislative assembly has concluded that it would be unconscionable for the state now to assert a claim to the property hereinafter described, and declares its policy to be that the state should assist in every manner in curing any apparent defects which now exist in the title to said property.

§ 2. Board of Administration Authorized to Execute Quitclaim Deed.) The board of administration is hereby authorized, upon receipt of the total sum of twenty-five dollars, to execute the necessary quitclaim deed in behalf of the state of North Dakota, to the Baptist Old Peoples Home Society of the Dakota Conference, disclaiming all right, title, and interest in and to the said property, for the purpose of curing the title to the property described as follows:

The real property in the city of Bismarck, Burleigh County, North Dakota, described as the west eighty feet of that certain tract of land in the east half of the northeast quarter of section thirty-three, township one hundred thirty-nine, range eighty, beginning at the southeast corner of Capitol Park Addition to Bismarck on the west line of Eleventh Street projected north, running thence north three hundred sixty-three feet, thence east two hundred forty feet, thence south to the north line of McKenzie and Coffin's Addition to Bismarck, thence west to the northeast corner of block ninety-six of said McKenzie and Coffin's Addition, thence north to the point of beginning,

such conveyance to be free of all reservations, restrictions, or rights of reversion.

Approved March 4, 1963.

CHAPTER 365

H. B. No. 744
(Poling)

CONVEYANCE OF FORT UNION HISTORIC SITE

AN ACT

To permit the state historical society to transfer by deed and title the parcel of land known as Fort Union Historic Site.

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

§ 1.) Authorization for the transfer by deed and title, ten and twenty-six hundredths acres, more or less of land in township one hundred fifty-two, range sixty-five, section seven, Williams County to that division of federal government, normally the National Park Service, Department of Interior with the understanding that they shall further develop the area as a national historic landmark.

§ 2.) The parcel of land is further identified as follows: Beginning at the northeast corner of lot three, section seven, township one hundred fifty-two, north range one hundred four west, thence seven hundred feet in a westerly direction along the north line of lot three to a point; thence at right angles five hundred feet, more or less in a southerly direction to a point, thence at right angles seven hundred feet, more or less in an easterly direction to a point on the east line of lot three, thence five hundred feet, more or less in a northerly direction along this east line of lot three to the point of beginning said tract containing eight and twenty-six hundredths acres more or less. Also a right in the general public to travel over and upon the tract described as follows, which right-of-way is to connect the tract above described with the county road: Beginning at the southwest corner of lot two, section seven, township one hundred fifty-two north, range one hundred four west, thence north along section line a distance of nine hundred sixty and four-tenths feet thence east along county road and Great Northern Railway a distance of sixty-six feet; thence south to the one-fourth line, thence west sixty-six feet to the point of beginning; containing an area of one and four-tenths acres more or less and all lying in lot two of said section seven. Also, beginning at the southwest corner of lot two, section seven, township one hundred fifty-two north, range one hundred four west, thence east along the one-fourth line five hundred twenty-nine and fifty-eight hundredths feet, thence south sixty-six feet, thence west five hundred twenty-nine and fifty-eight hundredths feet, thence

north sixty-six feet to the point of beginning; containing an area of eight-tenths of an acre more or less and all lying in lot three of said section seven.

Approved March 6, 1963.

CHAPTER 366

H. B. No. 758

(Hertz, Meyer, Brown, Gietzen, Johnston)

LEASE OF INDUSTRIAL SCHOOL PROPERTY

AN ACT

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

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

§ 1.) The board of administration is hereby authorized to lease to the Supercrete Industries the following described lands:

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

Beginning at a point four hundred seventy-five feet east of the southwest quarter of the southwest quarter of section twenty-eight, township one hundred thirty-nine north, range eighty-one west, said point being on the south boundary line of said southwest quarter; thence east along the south boundary line of said southwest quarter a distance of two hundred feet; thence north on a line parallel to the west boundary line of said southwest quarter a distance of ninety-four feet more or less to the south boundary line of the Northern Pacific Railroad right-of-way; thence westerly on a curve along said right-of-way boundary line to the northeast corner of Auditors Lot "D" of the southwest quarter of section twenty-eight, township one hundred thirty-nine north, range eighty-one west; thence south along the east boundary line of Auditors Lot "D" a distance of one hundred ten feet to the point of beginning, said tract containing 0.47 acres more or less

and

A tract of land lying and being in the northwest quarter of section thirty-three, township one hundred thirty-nine

north, range eighty-one west, Morton County, North Dakota, and more fully described as follows:

Beginning at a point four hundred seventy-five feet east of the northwest corner of the northwest quarter of section thirty-three, township one hundred thirty-nine north, range eighty-one west, said point being on the north boundary line of said northwest quarter; thence south on a line parallel to the west boundary line of said northwest quarter a distance of three hundred seventy feet; thence east on a line parallel to the north boundary line of said northwest quarter a distance of two hundred feet; thence north on a line parallel to the west boundary line of said northwest quarter a distance of three hundred seventy feet to the north boundary line of said northwest quarter of section thirty-three; thence west along the north boundary line of the northwest quarter of section thirty-three, township one hundred thirty-nine north, range eighty-one west, a distance of two hundred feet to the point of beginning, said tract containing 1.70 acres more or less.

Such lease shall be for a term of twenty-five years at an annual rental payable in advance of one hundred dollars per year. The lease shall be upon such terms and conditions as the board of administration shall prescribe, but shall specifically contain a requirement that the existing road upon such premises shall be maintained by Supercrete Industries for use of vehicles and equipment of the state industrial school, and that the irrigation ditch located upon the premises shall be relocated in such manner as may be prescribed by the board of administration.

Approved March 6, 1963.

CHAPTER 367

H. B. No. 888

(Delayed Bills Committee)

(Unke, Jacobson, Schaffer, Christopher, Lundene, Leahy, Halcrow)

SALE OF FORMER BLIND SCHOOL PROPERTY

AN ACT

To authorize the board of administration to sell all real property owned by the state at Bathgate, North Dakota and formerly utilized by the school for the blind, 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 to sell all buildings and lands formerly used as the school for the blind at Bathgate to the Pembina County Pioneer Rest Home, a North Dakota nonprofit corporation, for the consideration of one dollar. The provisions of this Act shall not be construed as authorizing the sale of land in excess of forty acres. The deed of conveyance shall contain a provision for a reversion to the state of North Dakota of all right, title and interest in the property should the property cease to be used as a home for the aged by a nonprofit corporation.

§ 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 19, 1963.

STATE HISTORICAL SOCIETY AND STATE PARKS

CHAPTER 368

H. B. No. 738
(Baldwin, Christopher)

STATE HISTORICAL SOCIETY BOARD OF DIRECTORS

AN ACT

To amend and reenact section 55-01-01 of the North Dakota Century Code Supplement to provide for a board of directors and officers thereof for the state historical society, and declaring an emergency.

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

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

55-01-01. State Historical Society — Board of Directors.) There shall be a state historical society of North Dakota. The governor, by and with the consent of the senate, shall appoint nine members of the state historical society to serve as a board of directors. Appointments shall be made from members of the state historical society who are residents of North Dakota who have had continuous membership in the society for three years immediately previous to the appointment. Interim appointment may be made by the governor if the senate is not in session and such interim appointees may hold office until the senate has had an opportunity to confirm or reject such appointments. The governor shall appoint to the first board of directors, beginning July 1, 1963, with three members to serve for a term of one year each, three members for a term of two years each, and three members for a term of three years each. Thereafter appointments shall be for a term of three years from the first day of July to the thirtieth day of June of the third year or until a successor has been appointed and qualified. Vacancies occurring other than by the expiration of an appointive term shall be filled by appointment for the remainder of the term only in the same manner as regular appointments. The board of directors shall select from its membership a president, vice president, and secretary to serve as officers of the state historical society. The governor, auditor, secretary of state, commissioner of agriculture and labor, and

state game and fish commissioner, shall be ex officio members of the board of directors of the state historical society and shall take care that the interests of the state are protected. The governor may appoint a representative to serve in his stead at such meetings as he may be unable to attend.

§ 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 9, 1963.

CHAPTER 369

H. B. No. 873

(Solberg, Wilkie, Skaar, Erickson)

NORTH DAKOTA HERITAGE STUDY COMMISSION

AN ACT

To provide for a North Dakota Heritage Study Committee, designating an area of the capitol building as a heritage center or exhibition area for displaying mementos pertinent to North Dakota heritage, and making an appropriation.

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

§ 1. **North Dakota Heritage Study Committee — Display Area.)** A North Dakota heritage study committee is hereby established to consist of the governor, superintendent of the state historical society, secretary and director of the state library commission, and two members to be selected at large by the governor, to plan for the preservation and display of material and mementos of North Dakota's heritage. The west wing of the ground floor of the capitol building is hereby designated as a heritage center and exhibition area for displaying mementos of North Dakota historic figures and personages and memorializing North Dakota natives who have achieved national recognition in their fields of endeavor.

§ 2. **Appropriation.)** There is hereby appropriated, out of any moneys in the capitol building fund not otherwise appropriated, the sum of five thousand dollars, or so much thereof as may be necessary, for the purpose of establishing a heritage center or exhibition area for displaying mementos pertinent to North Dakota heritage for the biennium beginning July 1, 1963, and ending June 30, 1965.

Approved March 13, 1963.

CHAPTER 370

H. B. No. 794

(Christensen (McLean), Giffey, Hauf, Olienyk, Miller, Austin)

RECREATIONAL AREA BOND ISSUE

AN ACT

To provide for the issuance of revenue bonds by the state historical society for the purpose of financing the construction of campsites, recreation areas, and tourist accommodations at selected sites throughout the state, providing the powers of the state historical society in connection with the management thereof.

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

§ 1.) The board of directors of the state historical society is hereby authorized to issue revenue-producing bonds in such amounts as it may deem necessary from time to time, provided that the total amount of such bonds outstanding at any one time shall not exceed one million dollars, and the proceeds of such bond issues are hereby appropriated to the state historical society to be expended in accordance with the provisions of this Act. The revenue derived from the sale of such bonds shall be used for the construction of camping sites, recreation areas, and tourist accommodations and facilities at, or in the immediate vicinity of Garrison Lake State Park, Totten Trail State Park, Lake Metigoshe State Park, Fort Buford Historic Site, Turtle River State Park, the Chateau de Mores Historic Site, Fort Totten, Fort Abercrombie, Old Fort Lincoln, and such other sites, as the board of directors shall determine on the basis of a study of scenic attraction, accessibility to regular transportation routes, and economic feasibility.

§ 2.) The provisions of chapter 15-55 relating to the issuance of bonds to finance construction of revenue-producing buildings at institutions of higher education shall govern the issuance of bonds under this chapter, and the board of directors shall possess all of the powers and be subject to all of the duties imposed upon the board of higher education by chapter 15-55, except as otherwise specifically provided, or except as to those provisions, powers, or duties which, by their very nature, cannot be applicable.

§ 3.) The board of directors of the state historical society and its authorized agents and employees shall, subject to the provisions of law, possess full powers of management over any campsites, recreational areas, and tourist accommodations and facilities, including, but not limited to, site selection and

planning, setting of fees and charges, setting hours and seasons of operation, regulating the conduct of guests and visitors, employment and bonding of personnel, compensation of employees, acquisition, construction, and maintenance of facilities, and promotion of wide utilization of facilities through advertising and publicity. Operation of facilities may be supervised by employees of the board of directors, or the board may contract for the lease of any such facilities to a concessionaire to be operated on such terms and compensation basis as the board shall determine to be in the best interest of the state. A bond shall be required of all concessionaires in such amount as the board shall determine, conditioned upon the faithful performance of all duties under the contract and proper accounting for all funds.

§ 4.) A sinking fund shall be established for the retirement of any bonds issued under the provisions of this Act. The revenue derived from facilities constructed under the provisions of this Act, less necessary and proper expenses, shall be deposited in the sinking fund for the retirement of bond issues.

Approved March 13, 1963.

SUCCESSION AND WILLS

CHAPTER 371

S. B. No. 318
(Meidinger, Wartner)

INTESTATE SUCCESSION

AN ACT

To amend and reenact subdivision b of subsection 1 of section 56-01-04 of the North Dakota Century Code, relating to the succession to property of persons dying without a will.

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

§ 1. Amendment.) Subdivision b of subsection 1 of section 56-01-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- b. A surviving husband or wife and more than one child living, or one child living and the lawful issue of one or more deceased children one-half to the surviving husband or wife and the remainder in equal shares to the child or children living and to the lawful issue of any deceased child by right of representation, but if there is no child of the decedent living at the time of death, the remainder goes to all of the decedent's lineal descendants, and if all such descendants are in the same degree of kindred to the decedent, they share equally, but otherwise, they take according to the right of representation.

Approved March 6, 1963.

CHAPTER 372

S. B. No. 231

(Foss)

DISPOSITION OF ESCHEATED PROPERTY

AN ACT

To provide for the disposition of property which shall fall to the state by escheat, and for a transfer of funds.

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

§ 1.) The proceeds of all property which shall fall to the state by escheat shall be deposited in the permanent fund of the common schools of the state. All funds in the state treasury in the escheated estate fund on the effective date of this Act shall be transferred to the permanent fund of the common schools.

Approved March 5, 1963.

CHAPTER 373

S. B. No. 76
(Longmire, Wartner)

VALIDITY AND INTERPRETATION OF WILLS

AN ACT

To amend and reenact section 56-02-14 of the North Dakota Century Code, relating to the validity and interpretation of wills.

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

§ 1. **Amendment.)** Section 56-02-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

56-02-14. What Law Governs Validity and Interpretation of Wills.) Except as otherwise provided in this code, the validity and interpretation of wills is governed, when relating to real property within this state, by the law of this state, and when relating to personal property, by the law of the testator's domicile; provided however that whenever a decedent, being a citizen of the United States or a citizen or subject of a foreign country, wherever resident, shall have declared in his will and testament that he elects that such testamentary dispositions shall be construed and regulated by the laws of this state, the validity and effect of such dispositions shall be determined by such laws.

Approved March 6, 1963.

TAXATION

CHAPTER 374

S. B. No. 227

(Mutch, Baeverstad, Holand)

DUTIES OF SUPERVISOR OF ASSESSMENTS

AN ACT

To amend and reenact subsection 4 of section 57-01-05 of the North Dakota Century Code Supplement, relating to the duties of the supervisor of assessments and prescribing a penalty.

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

§ 1. Amendment.) Subsection 4 of section 57-01-05 of the North Dakota Century Code Supplement is hereby amended and reenacted to read as follows:

4. He shall make sales ratio and other studies of property assessments in the various counties, cities, and villages of this state for the purpose of properly advising the various assessors in the state and for the purpose of recommending to the tax commissioner changes to be made by the state board of equalization in the performance of the equalization powers and duties prescribed for it by section 57-13-04. In any county, city, or village, or any part thereof where the number of sales of properties is insufficient for making a sales ratio study, the supervisor of assessments or his assistants shall make appraisals of properties in order to determine the ratio of market value to assessment value.

Approved March 21, 1963.

CHAPTER 375

S. B. No. 51

(Holand, Baeverstad, Luick, Becker, Reichert)
(From LRC Study)

SPOT CHECKS AND EQUALIZATION OF ASSESSMENTS

AN ACT

To amend and reenact subsection 6 of section 57-02-01, and sections 57-12-06, 57-23-03, and 57-24-31 of the North Dakota Century Code, relating to collection of property taxes, spot checking and correction of assessments made for property tax purposes, and to repeal sections 57-02-16 and 57-22-15 of the North Dakota Century Code.

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

§ 1. Spot Checks of Real and Personal Property.) Prior to the annual meeting of the county board of equalization, the board of county commissioners of each county within this state shall provide for spot checks upon property within each county to properly verify the accuracy of the personal property listings and valuations and real property listings and valuations. In the case of personal property the spot checks shall not be less than one percent of the total separately owned personal property assessment listings. In the case of real property, spot checks shall be made only in the year of assessment on not less than one percent of the separately owned tracts or lots. Prior to the meeting at which the board of county commissioners reviews such spot checks and orders corrections in property assessment listings and valuations, notice shall be given to the boards of equalization of townships, cities, and villages that their property assessments shall be reviewed. The board of county commissioners shall direct the boards of equalization of townships, cities, or villages to make any necessary corrections where omissions or errors in assessment have been found. The board of county commissioners may select such persons or agencies as may be necessary to carry out the provisions of this section and provide for their compensation.

§ 2. Amendment.) Subsection 6 of section 57-02-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6. "Municipality" or "taxing district" means a county, city, village, township, school district, water conservation and flood control district, Garrison diversion conservancy district, county park district, joint county

park district, irrigation district, park district, rural fire protection district, or any other subdivision of the state empowered to levy taxes;

§ 3. **Amendment.)** Section 57-12-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-12-06. Rules To Be Followed in Equalizing Between Assessment Districts and in Equalizing Between Property Owners.)

1. The rules prescribed in section 57-12-05 shall apply when the board of county commissioners is equalizing assessments between the several assessment and taxing districts in the county provided that in such case, except as otherwise provided in subsection 2 of this section, the board may raise or lower the valuation of classes of property only so as to equalize the assessments as between districts.

2. Notwithstanding any other provision of this section:

a. The county board of equalization after notice to the local board of equalization may reduce the assessment on any separate piece or parcel of real estate or on the assessment to any person of any particular item or classification of personal property even though such property was assessed in a city, village, or township having a local board of equalization; provided that the county board of equalization shall not have authority to reduce any such assessment unless the owner of the property or the person to whom it was assessed shall first appeal to the county board of equalization, either by appearing personally or by a representative before the board or by mail or other communication to the board, in which his reasons for asking for the reduction are made known to the board; the proceedings of the board shall show the manner in which the appeal was made known to the board and the reasons for granting any reduction in any such assessment.

b. The county board of equalization after notice to the local board of equalization may increase the assessment on any separate piece or parcel of real property or on the assessment to any person of any particular item or classification of personal property even though such property was assessed in a city, village, or township having a local board of equalization; provided that the county board of equalization shall not have authority to increase any such assessment unless it shall first give notice by mail to the owner of the property or the person in whose name it was assessed that such person

may appear before the board on the date designated in the notice, which date shall be at least five days after the mailing of the notice; the county auditor as clerk of the board shall send such notice to the person or persons concerned.

- c. In any case where the county board of equalization during the course of its equalization sessions determines that any property of any person has been listed and assessed in the wrong classification, it shall direct the county auditor to correct the listing so as to include such assessment in the correct classification.

§ 4. Amendment.) Section 57-23-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-23-03. Abatement of Invalid, Inequitable, or Unjust Assessments.) When the board of county commissioners is satisfied beyond a doubt that the assessment of real or personal property described in an application for abatement is invalid, inequitable, or unjust, the board, if application is filed on or before the first day of November in the year in which such taxes become delinquent, may abate any part thereof in excess of a just, fair, and equitable assessment if such application for correction complies with requirements of this chapter. Any person aggrieved by any decision of said board of county commissioners may appeal to the district court in the manner provided by law.

An application for refund of taxes paid with respect to any part of an assessment abated under this section shall be granted only if such taxes were paid under proper protest as provided by section 57-20-20 and by compliance with the other provisions of that section.

§ 5. Amendment.) Section 57-24-31 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-24-31. Collection of Real Estate Taxes on Leasehold or Other Possessory Interests.) If any holder of a leasehold or other possessory interest in exempt real property neglects or refuses to pay any real estate taxes legally assessed and levied thereon at such time as now is or may hereafter be required by law for the payment of real property taxes, such leasehold or other possessory interest shall be sold in the manner provided by law for the sale of real property for delinquent taxes. Such taxes shall also constitute a personal charge against the holder of the lease or other possessory interest from and after the day they become due, and all of

the provisions of law with respect to the enforcement of collection of personal property taxes shall be applicable.

§ 6. Repeal.) Sections 57-02-16 and 57-22-15 of the North Dakota Century Code are hereby repealed.

Approved March 8, 1963.

CHAPTER 376

H. B. No. 838

(Berg, Anderson (McHenry), Vinje, Johnston, Dick, Knudsen)

"FARM" DEFINED

AN ACT

To create and enact subsection 10 of section 57-02-01 of the North Dakota Century Code, relating to the definition of a farm for tax purposes.

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

§ 1.) Subsection 10 of section 57-02-01 of the North Dakota Century Code is hereby created and enacted to read as follows:

10. There shall be a presumption that a unit of land is not a farm unless such unit contains a minimum of five acres which normally provides the owner, lessee, or occupant farming the land with not less than fifty percent of his annual income.

Approved March 7, 1963.

CHAPTER 377

S. B. No. 197

(Baker, Brooks, Reichert, Longmire, Lips, Meidinger)

PROPERTY EXEMPT FROM TAXATION

AN ACT

To amend and reenact subsection 10 of section 57-02-08 of the North Dakota Century Code and subsection 11 of section 57-02-08 of the Supplement of the North Dakota Century Code defining the limits of exemption from taxation of property.

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

§ 1. **Amendment.**) Subsection 10 of section 57-02-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

10. Real and personal property of an agricultural fair association duly incorporated for the exclusive purpose of holding agricultural fairs, and not conducted for the profit of any of its members or stockholders; provided that all property described in this subsection shall be subject to taxation for the cost of fire protection services furnished by any municipal corporation in which said property is located.

§ 2. **Amendment.**) Subsection 11 of the Supplement of the North Dakota Century Code, section 57-02-08 is hereby amended and reenacted to read as follows:

11. Real and personal property owned by lodges, chapters, commanderies, consistories, farmers' clubs, commercial clubs, and like organizations, and associations, grand or subordinate, not organized for profit, and used by them for places of meeting and for conducting their business and ceremonies, and all real and personal property owned by any fraternity, sorority, or organization of college students if such property shall be used exclusively for such purposes; provided further that any portion of such premises not exclusively used for places of meeting and conducting the business and ceremonies of such organization shall be subject to taxation.

Provided, further, that where any such organization as contemplated by this subsection shall be licensed for the sale of alcoholic beverages as defined by the statutes of the state of North Dakota, such portion of such premises where such alcoholic beverages are consumed

or sold shall be deemed not to be so used exclusively for conduct of its business and meeting if such beverages are sold at a profit.

Provided, further, that if food other than that served at lodge functions and banquets and food sold or consumed in any fraternity or sorority house, is sold at a profit on the premises, that portion of the premises where such food is sold at a profit shall be deemed not to be used exclusively for places of meeting or conducting the business and ceremonies of such organization; provided that all property described in this subsection shall be subject to taxation for the cost of fire protection services furnished by any municipal corporation in which said property is located.

Approved March 16, 1963.

CHAPTER 378

S. B. No. 258
(Redlin, Trenbeath, Forkner)

TAXATION OF FARM MACHINERY

AN ACT

To amend and reenact subsection 2 of section 57-02-12 and section 57-02-20 of the North Dakota Century Code, relating to the listing and exemption of newly acquired farm machinery from taxation, and declaring an emergency.

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

§ 1. Amendment.) Subsection 2 of section 57-02-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. Every person required to list property, when called upon by the assessor, shall make out and deliver to the assessor a statement, verified by oath, of all the personal property in his possession or under his control which he is required to list for taxation. Such sworn statement shall be in such form and shall contain such classifications of property as the tax commissioner may prescribe, subject to the supervision of the state board of equalization. Included upon such statement shall be a classification for farm machinery acquired subsequent to the last listing date.

§ 2. Amendment.) Section 57-02-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-02-20. Exemption of Farm Machinery for One Year.)

The part of the value of farm machinery on which sales or use tax is paid, purchased after August first, to be used by the buyer in his farming operations, shall be exempt to the buyer from the personal property tax which would be assessed and levied against it in the first year after its purchase were this section not in force. No exemption shall be allowed, however, unless the buyer exhibits to the assessor satisfactory written proof that the North Dakota sales or use tax has been paid on such farm machinery. In addition, for each unit of farm machinery with a value exceeding three hundred dollars, if any buyer shall fail or refuse to exhibit such proof of the payment of such sales or use tax, the assessor shall report such fact, together with a description of the farm machinery involved to the tax commissioner on forms to be prescribed by the commissioner. The commissioner shall promptly proceed to determine the amount of any sales or use tax due with respect to the sale or purchase of such farm machinery and shall have available any of the methods provided in chapter 57-39 or 57-40 to secure collection of the amount due, including the authority to collect from the consumer or user any sales tax due; provided that any assessment made by the assessor on such farm machinery may be abated, and the personal property tax refunded if paid, pursuant to the provisions of chapter 57-23 if the machinery was assessed because sales or use tax was not paid but was thereafter collected from the consumer or user by the retailer or tax commissioner. Any dealer in farm machinery may not claim the exemptions provided for in this section even though farm machinery owned by him is used in farming operations.

§ 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 21, 1963.

CHAPTER 379

H. B. No. 870

(Lowe, Johnston, Maragos, Baldwin)

PRORATION OF REAL ESTATE TAXES

AN ACT

To amend and reenact section 57-02-41 of the North Dakota Century Code, relating to the prorating of taxes on real property between vendor and purchaser, if one or the other is a religious corporation or organization.

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

§ 1. Amendment.) Section 57-02-41 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-02-41. Attachment of Tax Lien and Prorating Taxes as Between Vendor and Purchaser.) All taxes, as between vendor and purchaser, shall become a lien on real estate on and after the first day of January following the year for which such taxes were levied. In any case where real property is sold or otherwise disposed of or purchased or otherwise acquired by a religious corporation or organization after the assessment date and used for the purposes provided in subsection 7 or 9 of section 57-02-08, the property shall be liable for taxes during the portion of the year for which it has been assessed computed to the nearest month, such property was not used as provided in subsections 7 or 9 of section 57-02-08. The taxes so computed shall attach as a lien on such property and the purchaser shall take the property subject to such lien. When such property has not been assessed, it shall be assessed as omitted real property and taxes computed as herein provided.

Approved March 9, 1963.

CHAPTER 380

S. B. No. 122
(Robinson, Kamrath)

PAYMENTS IN LIEU OF REAL ESTATE TAXES

AN ACT

To provide for payments in lieu of taxes on real property owned by the state of North Dakota and controlled by the state game and fish department, and providing for an effective date.

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

§ 1. Definitions.) As used in this chapter, unless the context or subject matter otherwise clearly indicates:

1. "Property subject to valuation" means real property owned by the state and controlled by the state game and fish department but shall not include any land leased by such department if such land is being assessed to the owner; and
2. "Net value" means the value of the property subject to valuation for the purpose of computing the payments to be due and shall be equal to fifty percent of the property subject to valuation as assessed and equalized less the valuation of any improvements to any real property.

§ 2. Imposition of Payments.) The state game and fish commissioner shall annually make payments, subject to legislative appropriations, to the counties in which property subject to valuation is located pursuant to the provisions of this Act. Such payments shall be in lieu of taxes which would otherwise be available to such counties if the real property upon which these payments are based were not owned by the state or state agencies.

§ 3. Assessment of Property—Notice of County Auditors.) All property subject to valuation under this chapter shall be assessed and valued for the purpose of making the payments herein provided for, in the same manner as other real property in this state is assessed and valued for tax purposes, except that improvements to any real property shall not be considered in such valuation. The county auditors of the counties in which such property is located, prior to the meeting of the state board of equalization, shall give notice in writing to the state game and fish commissioner of the

value placed upon the property subject to valuation by the county boards of equalization.

§ 4. Appearance Before State Board of Equalization.) The state board of equalization shall equalize the value placed upon any tract of land subject to valuation under this Act. The state game and fish commissioner may appear before the state board of equalization to be heard for the purpose of opposing any unreasonable or unjust value placed upon property subject to valuation as equalized by the county board of equalization, or of opposing any increase or decrease in such valuation as proposed by the state board of equalization, to the end that all valuations of like property may be uniform and equal throughout the state.

§ 5. Computation of Payment — Remittance to Counties.)

1. Upon receipt of the decision of the state board of equalization the state game and fish commissioner shall compute the payments due to the counties in which property subject to valuation is located by multiplying the net value by one percent. The payments due to each county shall be the figure determined as herein provided.

2. After computing the payments due to each county the state game and fish commissioner shall remit to such counties the amounts due from the department, on or before March first of the succeeding year for which the assessments and valuations were made.

§ 6. Allocation of Revenue Within Counties.) The revenue to which the county level of government is entitled shall be determined according to the proportion the county mill levy on other real property bears to the total mill levies on real property of each taxing district wherein the property subject to valuation is located. The revenue remaining after apportionment to the county level shall be apportioned and distributed among the various taxing districts in which the property for which payments are made is located by the county auditor upon a pro rata basis to be determined according to the proportion the assessed value of the property subject to valuation in each taxing district bears to the total assessed value of all such property subject to valuation within the county. The amount of revenue allocated to each taxing district in which such property subject to valuation is located shall be divided among the various funds of such district according to the proportion that the mill levy for any fund bears to the total of all mill levies spread against other property in the taxing district that is assessed and taxed on an ad valorem basis.

§ 7. **Effective Date of Act.)** The effective date of this Act shall be January 1, 1964, and no payments shall be due under the provisions of this chapter until March 1, 1965.

Approved March 18, 1963.

CHAPTER 381

H. B. No. 745

(Dornacker, Reiten, Stallman, Davis (Dickey), Wastvedt)

COUNTY BOARD OF EQUALIZATION MEETINGS

AN ACT

To amend and reenact section 57-12-01 of the North Dakota Century Code, relating to the meeting of the board of county equalization and requiring the attendance of certain city, village, and township officials, and to repeal section 57-12-07 of the North Dakota Century Code, relating to the voluntary attendance of certain city, village, and township officials at such meetings.

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

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

57-12-01. Membership of Board—Meeting—Required Attendance of Certain Officials.) The board of county commissioners, at its regular meeting in July of each year, shall constitute a board of equalization of the assessments made within the county. The chairman of the board shall preside. The county board of equalization shall conduct a continuous day-to-day meeting, not to include Saturdays, Sundays, or legal holidays, until it has completed all duties prescribed by this chapter. The first order of business shall be the equalization of assessments of property assessed by city and village boards of equalization. The second order of business shall be the equalization of assessments of property assessed by township boards of equalization. The chairman of each city and village board of equalization, or his appointed representative, and each city and village assessor shall be present at such meeting during the first order of business. The chairman of each township board of equalization, or his appointed representative, and each township assessor shall be present at such meeting during the second order of business. Each person required by this section to attend the meeting of the county board of equalization shall be compensated at a rate not to exceed ten dollars per day for each day actually and neces-

sarily spent in attendance at such meeting plus the same mileage and expenses as are authorized for subdivision employees and officials. Such per diem and expenses shall be paid by the city, village or township in the same manner as other city, village or township expenses are paid.

§ 2. **Repeal.**) Section 57-12-07 of the North Dakota Century Code is hereby repealed.

Approved March 6, 1963.

CHAPTER 382

S. B. No. 67

(Forkner, Torgerson, Baeverstad, Meidinger, Harris, Longmire)

COUNTY ROAD TAX LEVY

AN ACT

To amend and reenact section 57-15-06.3 of the North Dakota Century Code to provide for a use of excess funds from county road construction programs, and declaring an emergency.

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

§ 1. **Amendment.**) Section 57-15-06.3 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-06.3. County Road Program Including Farm to Market and Federal Aid—Tax Levy.) The board of county commissioners of any county in this state may prepare a proposed county construction program of farm to market and federal aid roads on the county road system, setting forth a general description of the roads to be constructed, the location of bridges constituting a part of the program, the approximate total mileage, and the priority of construction. After approval of such program by the department and the bureau of public roads, the board may submit such program to the electors of the county with the question of levying a tax of not to exceed ten mills upon the net taxable assessed valuation of all property in the county for the completion of such program by matching, from the proceeds of such tax, federal funds available for federal aid, secondary and feeder roads, farm to market roads, and all roads as provided for under Public Law 769, 81st Congress, or future federal aid highway Acts of a similar character. If the majority of the electors voting on the question approved such program and levy, annually thereafter until such program is completed the board shall

levy a tax not in excess of ten mills, which levy shall not be subject to the county mill levy limitations, and the proceeds of such tax shall be used, except as herein provided, only for matching federal aid available for such program which shall be the official county road program. Any proceeds of a tax levy in excess of the amount needed to match federal funds in any year may be used by the county, at any time such proceeds may become available, for providing paved or any other type of road surfacing on roads included within the county road program for which the tax levy was originally made. Such paved or other type road surfacing may be used only after the question has been submitted to the electors of the county at a special election called for that purpose by the county commissioners. The use of such excess funds shall be approved by a majority of the electors voting at such special election.

§ 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, 1963.

CHAPTER 383

S. B. No. 189

(Baker, Brooks, Reichert, Longmire, Lips, Meidinger)

CITY AND VILLAGE TAX LEVY LIMITATION, EXCEPTIONS

AN ACT

To create subsection 6 of section 57-15-10 of the North Dakota Century Code, relating to exceptions to tax levy limitations in cities and villages, and providing such levy limitations shall not apply to taxes levied on property otherwise exempt from taxation, when levied to pay said property's proportionate share of the cost of fire protection services.

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

§ 1. Amendment.) Subsection 6 of section 57-15-10 of the North Dakota Century Code is hereby created and enacted to read as follows:

6. Taxes levied on property located within a municipality and otherwise exempt under the provisions of section 57-02-08 of the North Dakota Century Code, to pay such property's proportionate share of the cost of fire protection services maintained by the municipal corporation.

Approved March 18, 1963.

CHAPTER 384

S. B. No. 206

(Dahlund, Sanford, Kjos, Redlin, Torgerson, Forkner)
(Robinson, Wadeson)

TAX LEVY FOR MUNICIPAL ADVERTISING

AN ACT

To amend and reenact section 57-15-10.1 of the North Dakota Century Code, relating to the authority of counties and cities to levy a tax for advertising purposes.

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

§ 1. **Amendment.)** Section 57-15-10.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-10.1. Counties and Cities May Levy for Certain Advertising Purposes.) The board of county commissioners of any county, or the governing body of any city or village, may annually levy a tax for the purpose of advertising the resources and opportunities in the county or city as the case may be and promoting the industrial development thereof. Such tax shall not exceed the amount produced by the levy of one-half mill on a dollar of the net taxable valuation of the county or city as the case may be.

When any county, city or village makes the levy provided for by this section, the expenditure of the fund shall be under the direction of the governing boards of such county, city or village. The levy of such one-half mill authorized by this section shall not be subject to other mill limitations prescribed by law.

Approved March 16, 1963.

CHAPTER 385

H. B. No. 750
(Anderson (Richland))

SCHOOL DISTRICT LEVY LIMITATIONS

AN ACT

To amend and reenact sections 57-15-14 of the North Dakota Century Code, relating to levy limitations in school districts.

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

§ 1. **Amendment.)** Section 57-15-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-14. Tax Levy Limitations in School Districts.) The aggregate amount levied by any school district, except the Fargo school district, shall not exceed such amount as will be produced by a levy of nineteen mills on the dollar of the net assessed valuation of the district, except that:

1. Any school district giving two years of standard high school work may levy taxes not to exceed twenty-four mills;
2. Any school district giving three years of standard high school work may levy taxes not to exceed twenty-seven mills;
3. Any school district giving four years of standard high school work may levy taxes not to exceed thirty-two mills; provided that there shall be no limitation upon the taxes which may be levied by any school district having a total population in excess of seven thousand five hundred according to the last federal decennial census if upon resolution of the school board of any such district the removal of the mill levy limitation has been submitted and approved by a majority of the electors voting at any regular or special election upon such question. In the event such election is held in a reorganized district it shall be conducted and approved or disapproved in the same manner and subject to the same conditions as provided in section 15-53-14 for elections for approval of school district reorganization plans. Thereafter, the question of authorizing or discontinuing such unlimited taxing authority in any school district shall be submitted to the electorate at the next regular election upon the filing with the school board of a petition containing the signatures of

not less than five percent of the electors of the district as determined by the number voting in such school district at the most recent regular school district election. The election shall be held in the same manner and subject to the same conditions as provided in this section for the first election upon the question of authorizing an unlimited mill levy;

4. Any school district maintaining an elementary school with two or more teachers may levy taxes not to exceed twenty-five mills on the dollar of its net taxable valuation, except that where high school work is offered by such school the limitations on the regular high school levy shall apply.

Approved March 21, 1963.

CHAPTER 386

H. B. No. 866
(Christensen (Ward))

PAYMENT OF TAX SALE CERTIFICATES

AN ACT

To amend and reenact section 57-20-24 of the North Dakota Century Code, authorizing the county auditor to pay the holder of a tax sale certificate upon its presentment without the approval of the county commissioners.

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

§ 1. Amendment.) Section 57-20-24 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-20-24. Warrants To Be Drawn for Money Due Owners.) Upon application of the party entitled thereto, and satisfactory proof that such claim is owing and that the person presenting the claim is the rightful holder thereof, the county auditor shall give to such party his warrant upon the county treasurer for payment for any money paid in for redemption of taxes which may be due to the purchaser at the sale, or his assignee. The certificate of sale shall be surrendered and canceled at the time of such payment, or if the redemption is for a part or undivided interest in the piece or parcel of land redeemed, the amount of such redemption and the proportion redeemed shall be endorsed on such certificate, which shall be a cancellation of such part of the certificate. If any holder of a tax

sale certificate fails to present such tax sale certificate to the county auditor for payment within a period of ten years after notice, the board of county commissioners shall transfer the amount due on such tax sale certificate into the general fund of the county.

Approved March 18, 1963.

CHAPTER 387

H. B. No. 814

(Olsen (Burke-Divide), Vogel, Wilkie, Stockman, Fossum, Glaspey)

ASSESSMENT OF NONRESIDENTS' PERSONAL PROPERTY

AN ACT

To amend and reenact section 57-22-21.1 of the North Dakota Century Code, relating to the immediate assessment of personal property taxes upon property belonging to residents but stored in another state or province, and declaring an emergency.

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

§ 1. Amendment.) Section 57-22-21.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-22-21.1. Immediate Assessment of Personal Property Taxes.) It shall be the duty of the assessor, upon discovery of any personal property in the county, belonging to transients or nonresidents, the taxes upon which cannot in his opinion be made a lien upon sufficient real property, or upon discovery of personal property within the county belonging to a resident of this state but normally located in another state or province, to secure the payment of such taxes, as provided in section 57-22-21, to immediately, and in any event not more than five days thereafter, make a report to the treasurer, setting forth the nature, kind, description and character of such property, in such a definite manner that the treasurer can identify the same, and the amount and assessed valuation of such property, where the same is located, and the name and address of the owner, claimant, or other person in possession of the same.

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

Approved March 6, 1963.

CHAPTER 388

S. B. No. 272
(Holand)

DEDUCTION OF PERSONAL PROPERTY TAXES

AN ACT

To amend and reenact sections 57-22-26 and 57-22-27 of the North Dakota Century Code, relating to deductions of personal property taxes from salaries and claims against public funds and who are subject to such deductions.

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

§ 1. **Amendment.)** Section 57-22-26 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-22-26. Deduction of Personal Property Taxes from Salaries, Wages, and Claims Against Public Funds.) Any person who is required to issue warrants for, or to pay any salary or wages of any state officer or employee mentioned in section 57-22-27, or other compensation of any officer or employee of a political subdivision mentioned in section 57-22-27, or to pay any other claim against public funds of a political subdivision, shall ascertain from the tax records of the county wherein the services were performed, or the county wherein the person making claim for such compensation or other payment resides, whether such claimant is indebted to such county, or to any township, city, village, school district, park district, or any other municipality or political subdivision, for delinquent personal property taxes, and, if such indebtedness is found to exist, fifteen percent of the amount claimed for such salary or other compensation, or for such other payment, shall be withheld from each payment made until such personal property taxes, with interest and penalty, are fully satisfied, except that the total amount deducted and withheld shall never exceed double the amount of the total indebtedness. If, however, in any case the amount of the salary, wages, compensation, or other claim allowed for payment amounts to less than fifteen dollars, then the entire amount shall be withheld therefrom to apply upon such delinquent personal property taxes.

§ 2. **Amendment.)** Section 57-22-27 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-22-27. Who Are Subject to Deductions.) The provisions of section 57-22-26 shall apply to all elective and appointive

officials and their deputies, all courts, bureaus, boards, commissioners, departments, and committees, and the officials and employees of any of them, all agents, clerks, inspectors, employees, contractors, and each person, firm, partnership, or corporation receiving, claiming, or demanding any salaries or wages from the state of North Dakota or any of its departments, bureaus, boards, or commissions, or claiming or demanding any money from any county, township, or other political subdivision of the state, or from any city, village, school district, park district, or any other municipality in the state. It is intended hereby to insure the payment of personal property taxes by all persons, firms, or corporations receiving salaries or wages from the state of North Dakota or receiving public funds from any of its political subdivisions, or municipalities within the state.

Approved March 18, 1963.

CHAPTER 389

H. B. No. 876

(Ganser, Schaffer, Diehl, Vendsel, Davis (Dickey), Lindberg)
(Staven, Burvee, Vinje)

CONTRACTS FOR TAX COLLECTION

AN ACT

To amend and reenact section 57-22-29 of the North Dakota Century Code, authorizing the county commissioners to pay any elector of the county a salary for the collection of delinquent taxes in lieu of a percentage of the amount collected, and to contract with any person, firm, or corporation for the collection of taxes owed by any person not residing in North Dakota, and declaring an emergency.

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

§ 1. **Amendment.)** Section 57-22-29 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-22-29. Contract for Tax Collection.) In any county where for any reason personal property taxes that have been delinquent more than one year remain unpaid and uncanceled, whether put into judgment or not, the board of county commissioners may contract with the sheriff of the county, or with any elector of the county, to pay a percentage of such delinquent personal property taxes, not exceeding ten percent of the amount collected, as compensation for collecting the same, in lieu of, or in addition to, the compensation provided

by law for said sheriff. When a contract is made with any person other than the sheriff, the county commissioners may in their discretion pay any reasonable salary or expenses or a percentage of the tax collected, or combination thereof, and the contract may cover all or only certain taxing districts within the county, and contracts may be made with different collectors for different portions of the county. No collection fee shall be paid to the sheriff or any other collector for any moneys deducted from warrants under the provisions of section 57-22-26. In the event delinquent personal property taxes are owed by a person not residing in North Dakota the county commissioners may contract with any person, firm, or corporation, to pay a reasonable percentage of such delinquent taxes collected, as compensation for such collection. Such contractors shall execute either a personal or corporate surety bond conditioned upon satisfactory performance of the provisions of the contract and shall be in an amount and of a type approved by the county commissioners.

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

Approved March 6, 1963.

CHAPTER 390

H. B. No. 546

(Saugstad, Knudsen, Aamoth, Anderson (McHenry), Fossum)

(Hauf, Miller)

(From LRC Study)

TELEPHONE COMPANY TAXATION

AN ACT

To amend and reenact subsection 1 of section 57-34-01 and section 57-34-11 of the North Dakota Century Code to provide for the taxation of private or commercial telephone companies exclusively engaged in serving rural areas or rural areas and cities and villages with a population of less than five hundred persons, at the rate of fifty cents for each telephone instrument used by such company in furnishing telephone service, and relating to the tax exemptions granted to telephone companies.

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

§ 1. **Amendment.)** Subsection 1 of section 57-34-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. "A telephone company" means all mutual associations and cooperative organizations or corporations engaged in the business of furnishing communication by telephone, and shall further mean all other persons, firms, corporations, or other organizations which are engaged in the business of furnishing means of communication by telephone within this state exclusively to rural areas or to rural areas and cities and villages provided that each city or village served has a population of five hundred persons or less; and

§ 2. **Amendment.)** Section 57-34-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-34-11. Exemption from Other Taxation.) The taxes imposed by this chapter shall be in lieu of all real and personal property taxes levied by the state or any of its political subdivisions upon real or personal property directly used by any mutual or cooperative telephone company in its telephone operations.

Approved March 9, 1963.

CHAPTER 391

S. B. No. 103

(Wadeson, Solberg, George, Tuff)

CIGARETTE TAX RATE, ALLOCATION

AN ACT

To amend and reenact section 57-36-23 of the North Dakota Century Code, increasing the tax assessed against the sale of cigarettes and allocated to the incorporated cities and villages of the state by one-half mill on each cigarette.

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

§ 1. **Amendment.)** Section 57-36-23 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-36-23. Separate and Additional Tax on the Sale of Cigarettes — Collection — Allocation of Revenue — Tax Avoidance Prohibited — Penalty.) There is hereby levied and assessed and there shall be collected by the proper officer and paid to the state treasurer, upon all cigarettes sold in this state, an additional tax, separate and apart from all other

taxes, of one mill on each such cigarette, to be collected as existing taxes on cigarettes sold are, or hereafter may be, collected, by use of appropriate stamps and under similar accounting procedures.

All moneys received by the state treasurer from the proceeds of the tax provided by this section are hereby appropriated and shall be distributed on or before the thirtieth day of June and the thirty-first day of December of each year on a per capita basis to the incorporated cities and villages of the state, to be used by such incorporated cities and villages for such purposes as are now or may be hereafter authorized by law, the allocation to be based upon the population of each incorporated city and village according to the last official federal census, or the census taken in accordance with the provisions of chapter 40-02 in the case of a city or village incorporated subsequent to the last federal census, and warrants shall be drawn payable to the treasurers of such cities and villages.

No person, firm, or corporation shall transport or bring or cause to be shipped into the state of North Dakota any cigarettes as provided herein, other than for delivery to wholesalers in this state, without first paying such tax thereon to the state treasurer.

Any person, firm or corporation violating any of the provisions of this section shall be guilty of a misdemeanor.

Approved March 5, 1963.

CHAPTER 392

H. B. No. 542

(Maragos, Brown, Saugstad, Knudsen, Fossum, Hauf, Backes)
(From LRC Study)

EXCISE TAX ON CIGARS AND TOBACCO

AN ACT

To create and enact sections 57-36-25 and 57-36-26 and to amend and reenact section 57-36-01 of the North Dakota Century Code, relating to the imposition of an excise tax on cigars and other tobacco products, except cigarettes and snuff, sold to retail dealers and providing for the manner of collection, the disposition of the proceeds thereof, and providing penalties.

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

§ 1. Amendment.) Section 57-36-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-36-01. Definitions.) As used in this chapter, unless the context or subject matter otherwise requires:

1. "Person" shall mean any individual, firm, fiduciary, partnership, corporation, trust, or association, however formed;
2. "Distributor" shall include any person engaged in the business of producing or manufacturing cigarettes, cigarette papers, cigars, snuff, or other tobacco products, or importing into this state cigarettes, cigarette papers, cigars, snuff, or other tobacco products, for the purpose of distribution and sale thereof to dealers and retailers;
3. "Licensed distributor" shall mean a distributor licensed under the provisions of this chapter;
4. "Dealer" shall include any person other than a distributor who is engaged in the business of selling cigarettes, cigarette papers, cigars, snuff, or other tobacco products;
5. "Licensed dealer" shall mean a dealer licensed under the provisions of this chapter;
6. "Sale" or "sell" shall apply to gifts, exchanges, and barter;
7. "Stamp" shall mean the stamps prepared by the tax commissioner as provided in section 57-36-08;
8. "Insignia" shall include or mean the impression or mark made on the cigarettes, cigarette papers, or snuff; or the package containing the same, approved by the tax commissioner, as provided in section 57-36-11;
9. "Cigar" means any roll of tobacco wrapped in tobacco; and
10. "Other tobacco products" means any product except cigarettes, cigarette papers, cigars, or snuff which is made up or composed of tobacco, in whole or in part.

§ 2.) Section 57-36-25 of the North Dakota Century Code is hereby created and enacted to read as follows:

57-36-25. Cigars and Tobacco Products — Excise Tax on Wholesale Price — Reports — Collection — Allocation of Revenue.)

1. There is hereby levied and assessed upon all cigars and other tobacco products, sold in this state an excise tax at the rate of ten percent of the wholesale price, less discounts allowed and taken, at which such cigars and other tobacco products are purchased by retail dealers. The proceeds of such tax, together with such forms of return and in accordance with such rules and regulations as the tax commissioner may prescribe, shall be

- remitted to the tax commissioner by the distributor on a calendar quarterly basis on or before the end of the month following the quarterly period for which paid.
2. Any person failing to file any prescribed forms of return or to pay any tax within the time required by this section shall be subject to a penalty of three percent of the amount of tax due, plus one percent 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. The tax commissioner, if satisfied that the delay was excusable, may remit all or any part of such penalty. Such penalty shall be paid to the tax commissioner and disposed of in the same manner as are other receipts under this chapter.
 3. The retail sale of cigars or other tobacco products shall not be subject to any tax imposed by chapters 57-39 and 57-40.
 4. All moneys received by the tax commissioner under the provisions of this section shall be transmitted to the state treasurer at the end of each month and deposited in the state treasury to the credit of the general fund.
 5. All the provisions of this chapter, specifically including the penalties prescribed by subsections 1 and 2 of section 57-36-20, pertaining to the administration of the tax on cigarettes and snuff, not in conflict with the provisions of this section, shall govern the administration of the taxes levied in this section.

§ 3.) Section 57-36-26 of the North Dakota Century Code is hereby created and enacted to read as follows:

57-36-26. Cigars and Tobacco Products—Excise Tax Payable by Dealers—Reports—Collection—Allocation of Revenue.)

1. There is hereby levied and assessed upon all cigars and other tobacco products, purchased in another state and brought into this state by a dealer for the purpose of sale at retail, an excise tax at the rate of ten percent of the wholesale price at the time such products were brought into this state. The proceeds of such tax, together with such forms of return and in accordance with such rules and regulations as the tax commissioner may prescribe, shall be remitted to the tax commissioner by the dealer on a calendar quarterly basis on or before the end of the month following the quarterly period for which it is paid.
2. If cigars or other tobacco products have been subjected already to a tax by any other state in respect to their sale in an amount less than the tax imposed by this

section, the provisions of this section shall apply, but at a rate measured by the difference only between the rate fixed in this section and the rate by which the previous tax upon the sale was computed. If the tax imposed in such other state is ten percent of the wholesale price or more, then no tax shall be due on such article. The provisions of this subsection shall apply only if such other state allows a tax credit with respect to the excise tax on cigars and other tobacco products imposed by this state which is substantially similar in effect to the credit allowed by this subsection.

3. Any person failing to file any prescribed forms of return or to pay any tax within the time required by this section shall be subject to a penalty of three percent of the amount of tax due, plus one percent 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. The tax commissioner, if satisfied that the delay was excusable, may remit all or any part of such penalty. Such penalty shall be paid to the tax commissioner and disposed of in the same manner as are other receipts under this chapter.
4. The retail sale of cigars or other tobacco products shall not be subject to any tax imposed by chapters 57-39 and 57-40.
5. All moneys received by the tax commissioner under the provisions of this section shall be transmitted to the state treasurer at the end of each month and deposited in the state treasury to the credit of the general fund.
6. All the provisions of this chapter, specifically including the penalties prescribed by subsections 1 and 2 of section 57-36-20, pertaining to the administration of the tax on cigarettes and snuff, not in conflict with the provisions of this section, shall govern the administration of the taxes levied in this section.

Approved March 14, 1963.

CHAPTER 393

S. B. No. 324
(Chesrown)

INCOME TAX, DEFINITION

AN ACT

To amend and reenact subsection 21 of section 57-38-01 of the North Dakota Century Code Supplement, relating to definitions provided in the income tax law; and to repeal subsection 6 of section 57-38-15.3 of the North Dakota Century Code and subdivision (c) of subsection 8 of section 57-38-18 of the North Dakota Century Code Supplement, relating to definitions provided in the income tax law.

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

§ 1. Amendment.) Subsection 21 of section 57-38-01 of the North Dakota Century Code Supplement is hereby amended and reenacted to read as follows:

21. "Federal Internal Revenue Code of 1954, as amended", "United States Internal Revenue Code of 1954, as amended" and "Internal Revenue Code of 1954, as amended", mean the United States Internal Revenue Code of 1954, as amended to and including December 31, 1962.

§ 2. Repeal.) Subsection 6 of section 57-38-15.3 of the North Dakota Century Code and subdivision (c) of subsection 8 of section 57-38-18 of the North Dakota Century Code Supplement are hereby repealed.

Approved March 21, 1963.

CHAPTER 394

S. B. No. 200

(Mutch, Saumur, Longmire)

ALLOCATION AND APPORTIONMENT OF
INDIVIDUAL INCOME

AN ACT

To amend and reenact subsection 2 of section 57-38-04 of the North Dakota Century Code Supplement, relating to the allocation and apportionment of income of individuals.

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

§ 1. Amendment.) Subsection 2 of section 57-38-04 of the North Dakota Century Code Supplement is hereby amended and reenacted to read as follows:

2. a. Income received from personal or professional services performed by residents of this state, regardless of where such services are performed, and income received by residents of this state from intangible personal property shall be assigned to this state. If a tax is paid to another state or territory of the United States or to the District of Columbia on any income assigned to this state under this subsection, a credit for any tax so paid may be deducted from the tax assessed under this chapter if written proof of such payment is furnished to the tax commissioner; provided, that this credit for such tax shall not exceed the difference between (a) the amount of tax that would be due under this chapter if all of the taxpayer's income had been derived from sources within North Dakota, and (b) the amount of tax that would be due under this chapter if the income from personal or professional services performed outside of North Dakota, together with any federal income taxes paid thereon, were excluded from the computation of the North Dakota income tax;
- b. Notwithstanding any other provision of this chapter, the compensation received from services performed within this state by an individual who (1) performs services for a common carrier engaged in interstate transportation and (2) who resides and has his place of abode to which he customarily returns at least once a month in another state shall be excluded from income to the extent that such income is subject to

an income tax imposed by the state of his residence; provided that such state allows a similar exclusion of such compensation received by residents of North Dakota for similar services performed therein, or a credit against the tax imposed on the income of residents of this state that is substantially similar in effect. For the purposes of this subdivision the words "an individual who performs services for a common carrier engaged in interstate transportation" shall be limited to an individual who performs such services for a common carrier only during the course of making regular "runs" into North Dakota or from within North Dakota to outside North Dakota, or both, on the transportation system of the common carrier.

Approved March 21, 1963.

CHAPTER 395

S. B. No. 360
(Delayed Bills Committee)
(Wartner)

INDIVIDUAL INCOME TAX RATE

AN ACT

To amend and reenact section 57-38-29 of the North Dakota Century Code, relating to the rate of tax on individuals for state income tax purposes, and providing an effective date.

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

§ 1. Amendment.) Section 57-38-29 of the North Dakota Century Code Supplement is hereby amended and reenacted to read as follows:

57-38-29. Rate of Tax on Individuals.) A tax is hereby imposed upon every individual, to be levied, collected, and paid annually with respect to the taxable income of such individual as defined in this chapter, computed at the following rates:

1. On taxable income not in excess of one thousand dollars, a tax of one percent;
2. On taxable income in excess of one thousand dollars and not in excess of two thousand dollars, a tax of two percent;

3. On taxable income in excess of two thousand dollars and not in excess of three thousand dollars, a tax of three percent;
4. On taxable income in excess of three thousand dollars and not in excess of four thousand dollars, a tax of four percent;
5. On taxable income in excess of four thousand dollars and not in excess of five thousand dollars, a tax of five percent;
6. On taxable income in excess of five thousand dollars and not in excess of six thousand dollars, a tax of six percent;
7. On taxable income in excess of six thousand dollars and not in excess of seven thousand dollars, a tax of seven percent;
8. On taxable income in excess of seven thousand dollars and not in excess of eight thousand dollars, a tax of eight percent;
9. On taxable income in excess of eight thousand dollars and not in excess of nine thousand dollars, a tax of nine percent;
10. On taxable income in excess of nine thousand dollars, and not in excess of fifteen thousand dollars, a tax of ten percent;
11. On taxable income in excess of fifteen thousand dollars, a tax of eleven percent.

Provided, however, that the tax liability hereunder shall in no case be less than five dollars for any individual or fiduciary income tax return required to be filed under the provisions of this chapter. In the event of an overpayment of tax by any individual or fiduciary, no refund in an amount of less than two dollars shall be made by the tax commissioner.

§ 2. **Effective Date.**) The provisions of this Act shall be effective with respect to income earned in income years commencing after December 31, 1962.

Filed March 25, 1963.

Not approved or disapproved by Governor.

CHAPTER 396

S. B. No. 39

(Holand, Baeverstad, Luick, Reichert)
(From LRC Study)

WITHHOLDING OF INCOME TAXES

AN ACT

Creating and enacting sections 57-38-58, 57-38-59, 57-38-60, 57-38-61, 57-38-62, 57-38-63, and 57-38-64 of the North Dakota Century Code, relating to withholding of income taxes from wages of employees, declaration and payment of estimated income, amendment of declaration, and providing an effective date and penalties.

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

§ 1.) Section 57-38-58 of the North Dakota Century Code is hereby created and enacted to read as follows:

57-38-58. Definitions.) As used in sections 57-38-59 through 57-38-64 unless the context or subject matter otherwise requires:

1. "Employer" means a person or organization transacting business in or deriving any income from sources within the state of North Dakota for whom an individual performs or performed any services, of whatever nature, and who has control of the payment of wages for such services, or an officer, agent or employee of the person or organization having control of the payment of wages. It includes any officer or department of state or federal governments, or any political subdivision or agency thereof;
2. "Employee" means and includes every individual performing services for an employer, the performance of which constitutes, establishes and determines the relationship between the parties as that of employer and employee, and includes officers of corporations, individuals, including elected officials, performing services for the United States Government or any agency or instrumentality thereof, or the state of North Dakota or any county, city, municipality or political subdivision thereof;
3. "Wages" means "wages" as defined in the Internal Revenue Code of 1954, as amended, for the purpose of collection of income tax at the source, on wages; and
4. "Nonresident" during the period beginning August 1, 1963, and ending September 30, 1965 includes any person

who did not file an individual income tax return with the state tax commissioner for the preceding year and who has not continuously maintained a domicile in North Dakota for a period of one full calendar year from January first to December thirty-first, and such person shall be deemed a nonresident of North Dakota until he has filed an individual income tax return with the state tax commissioner for the preceding year and until he has continuously maintained a domicile in North Dakota for a full calendar year. After September 30, 1965, the term "nonresident" as used in subsection 1 of section 57-38-59, subsections 1, 2, and 3 of section 57-38-60, and in section 57-38-62 shall mean any employee as defined in subsection 2 of this section.

§ 2.) Section 57-38-59 of the North Dakota Century Code is hereby created and enacted to read as follows:

57-38-59. Withholding from Wages of Nonresident Employees—Penalty.) 1. Every employer making payment of wages to all nonresident employees shall deduct and withhold from wages such percentage or percentages as determined by the tax commissioner, of the total amount required to be deducted by an employer from wages of an employee under the provisions of the Internal Revenue Code of 1954, as amended; in addition, any employer may elect to deduct and withhold prior to October 1, 1965, the amount of tax as prescribed herein from the wages of any employee. The amount of tax withheld shall be computed without regard to any other amount required to be withheld thereunder, but the tax withheld shall as closely as possible pay any tax liability imposed by this chapter.

2. In the event that the tax deducted and withheld under the provisions of subsection 1 of this section should prove to be disproportionate to the tax liability, the tax commissioner may adjust the percentage which, when withheld, will, as closely as may be possible, pay the income tax liability imposed by this chapter.

3. The tax commissioner may, in lieu of the requirement above for deducting and withholding tax based upon a percentage of federal income tax withheld, adopt by regulation tax tables which, when the tax provided for in the tables is withheld, will, as closely as possible, pay the income tax liability imposed by this chapter. When adopted by the tax commissioner said tables shall be followed by every employer required to deduct and withhold any tax imposed by this chapter.

4. Every employer shall deduct and withhold from every employee's wages the amounts required to be deducted and

withheld from a nonresident employee's wages until such time as the employee has filed with his employer a certificate under oath, in such form as the tax commissioner shall prescribe, that such employee entitled to wages is a resident of the state of North Dakota as defined for withholding purposes. Any employee submitting a falsified statement shall be guilty of perjury and punished in accordance with chapter 12-14.

Employers shall be required to make the certificates of residence available to the tax commissioner upon request. The provisions of this subsection shall be effective for the period beginning August 1, 1963, and ending September 30, 1965, both dates inclusive.

5. On or before the date of the commencement of employment with an employer, the employee shall furnish the employer with a signed withholding exemption certificate relating to the number of withholding exemptions which he claims, which shall in no event exceed the number to which he is entitled. The certificate shall be in such form and shall contain such information as the tax commissioner shall prescribe. The furnishing of such certificate or a new certificate if the exemption status of the employee changes, the time for furnishing the certificate and the time it shall take effect shall be governed by the similar provisions of the United States Internal Revenue Code of 1954, as amended.

§ 3.) Section 57-38-60 of the North Dakota Century Code is hereby created and enacted to read as follows:

57-38-60. Employer's Returns and Remittances.) 1. Every employer shall, on or before the last day of April, July, October, and January, pay over to the tax commissioner the amount required to be deducted and withheld from wages paid to all nonresident employees during the preceding calendar quarter under the provisions of section 57-38-59; provided that the tax commissioner may alter the time or period for making reports and payment when in his opinion, the tax is in jeopardy, or may prescribe the use of any other time or period as will facilitate the collection and payment of the tax by the employer.

2. Every employer shall file a return on forms prescribed by the tax commissioner with each payment made to the tax commissioner under the provisions of this section which shall show the total amount of wages paid to his nonresident employees, the amount of federal income tax deducted and withheld during the period covered by the return, the amount of tax imposed under the provisions of this chapter that was deducted and withheld during the period covered by the

return, and such other information as the tax commissioner may require.

3. Every employer shall make an annual return to the tax commissioner on forms provided and approved by him, summarizing the total compensation paid, the federal income tax deducted and withheld and the state tax deducted and withheld for each nonresident employee during the calendar year and shall file the same with the tax commissioner on or before the thirty-first day of January of the year following that for which the report is made. Every employer shall also, in accordance with such regulations as may be prescribed by the tax commissioner, provide each nonresident employee from whom state income tax has been withheld, with a statement of the amounts of total compensation paid and the amounts deducted and withheld for such employee during the preceding calendar year in accordance with the provisions of section 57-38-59, and said statement shall be made available to the employee on or before the thirty-first day of January of the year following that for which the report is made.

4. The employer shall be liable to the tax commissioner for the payment of the tax required to be deducted and withheld under section 57-38-59, and the employee shall not thereafter be liable for the amount of any such payment, nor shall the employer be liable to any person or to any employee for the amount of any such payment. For the purpose of making penalty provisions of this chapter applicable, any amount deducted or required to be deducted and remitted to the tax commissioner under this section shall be considered to be the tax of the employer and with respect to such amounts he shall be considered the taxpayer.

5. Every employer who deducts and withholds any amounts under the provisions of section 57-38-59 shall hold the same in trust for the state of North Dakota for the payment thereof to the tax commissioner in the manner and at the time provided for in this section, and the state of North Dakota shall have a lien on the property of the employer to secure the payment of any amounts withheld and not remitted as provided herein, which lien shall attach at the time prescribed and to the property described in section 57-38-48 and shall be subject to the provisions of sections 57-38-49, 57-38-50, and 57-38-51.

6. As a condition precedent to the doing of business in the state of North Dakota, an employer may be required by the tax commissioner to either make a cash deposit or post with him a bond or undertaking executed by a surety company authorized to do business in the state of North Dakota in such amount as is reasonably calculated to insure the payment

to the state of taxes deducted and withheld from wages, but not to exceed five thousand dollars.

§ 4.) Section 57-38-61 of the North Dakota Century Code is hereby created and enacted to read as follows:

57-38-61. Provisions of Chapter Applicable.) The provisions of sections 57-38-34, 57-38-38 through 57-38-40, 57-38-43 through 57-38-47, and 57-38-52 through 57-38-57 shall insofar as consistent therewith, govern the administration of sections 57-38-58, 57-38-59, and 57-38-60. The term "employer" as used in sections 57-38-58, 57-38-59, and 57-38-60 shall also mean "taxpayer" as used in this chapter. No refund shall be made by the tax commissioner to a taxpayer unless the amount to be refunded shall exceed three dollars. In addition, the authority of the tax commissioner to prescribe rules and regulations shall include the authority to make such agreements with the United States Government or any of its agencies as are necessary to provide for the deducting and withholding of tax from the wages of federal employees in the state of North Dakota.

§ 5.) Section 57-38-62 of the North Dakota Century Code is hereby created and enacted to read as follows:

57-38-62. Declaration of Estimated Income.) All nonresident taxpayers shall, at the time prescribed in this chapter, make a declaration of his estimated tax for the taxable year, containing such information as the tax commissioner may prescribe by rules and regulations, if his estimated tax on taxable income from sources other than wages, salaries, bonuses or other emoluments can reasonably be expected to exceed forty dollars.

§ 6.) Section 57-38-63 of the North Dakota Century Code is hereby created and enacted to read as follows:

57-38-63. Payment of Estimated Tax.) No later than April fifteenth of the taxable year the taxpayer shall file the declaration of estimated tax and make payment of no less than one-quarter of the amount of tax due thereon with the tax commissioner. If at this time a payment of at least one-quarter but less than the entire amount of tax due is made by the taxpayer the balance of the tax shall then be paid in three equal installments on the fifteenth days of the following months of June, September, and January.

§ 7.) Section 57-38-64 of the North Dakota Century Code is hereby created and enacted to read as follows:

57-38-64. Amendment of Declaration.) An individual may amend a declaration of estimated income and make the

adjusted payments of tax due thereon under the regulations of the tax commissioner.

§ 8. Effective Date.) The provisions of sections 57-38-59, 57-38-62, and 57-38-63 shall become effective for wages paid and income received after July 31, 1963 as to nonresident employees and nonresident taxpayers and shall become effective as to all employees and taxpayers as to wages paid and income received after September 30, 1965. Nonresident taxpayers shall on or before September 15, 1963, file the declaration of estimated tax and shall make payment of no less than one-sixth of the tax due thereon with the state tax commissioner; the balance of any tax due shall be paid on or before January 15, 1964.

Filed March 25, 1963.

Not approved or disapproved by Governor.

CHAPTER 397

S. B. No. 50

(Holand, Luick, Reichert)

(From LRC Study)

ADJUSTED TAX ON INDIVIDUAL INCOME

AN ACT

To create and enact section 57-38-65 of the North Dakota Century Code to provide for the levying and collection of an adjusted tax on individual income, and an effective date.

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

§ 1.) Section 57-38-65 of the North Dakota Century Code is hereby created and enacted to read as follows:

57-38-65. Adjusted Income Tax on Individual Income.)

Each individual, estate, or trust required to file an income tax return by this chapter shall pay an additional tax of one percent of the difference between:

1. The amount of his net income as defined in section 57-38-21 and
2. The total of his personal exemptions as defined in section 57-38-26 or 57-38-27,

less a credit to be deducted from such adjusted tax equal to twenty percent of all real estate taxes and personal property taxes which first become due and payable during the income

year and were actually paid to this state or its political subdivisions. The revenue collected by the tax commissioner as additional tax shall be deposited in the general fund not later than the last day of each month. The tax imposed by this section shall be supplemental to the tax imposed by this chapter and all provisions within this chapter not inconsistent with the provisions of this section, including but not limited to withholding, filing of returns, payments and penalties, shall apply to the tax imposed by this section. The provisions of this Act shall apply to all income years commencing after December 31, 1962.

Filed March 25, 1963.

Not approved or disapproved by Governor.

CHAPTER 398

H. B. No. 756

(Fitch, Leahy, Baldwin, Aamoth, Stockman)

SALES TAX DEFINITIONS

AN ACT

To amend and reenact section 57-39-01 of the North Dakota Century Code, relating to the definitions of a retail sale or sale at retail under the sales tax law.

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

§ 1. Amendment.) Section 57-39-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

***57-39-01. Definitions.)** The following words, terms and phrases, when used in this chapter, have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

1. "Person" includes any individual, firm, partnership, joint adventure, association, corporation, estate, business trust, receiver, or any other group or combination acting as a unit and the plural as well as the singular number;

2. "Sales" means any transfer of title or possession, exchange or barter, conditional or otherwise, in any manner or by any means whatsoever, for a consideration, and includes sales of subscriptions to magazines and other periodicals

***Note:** Subsections 2, 3, and 5 of section 57-39-01 were also amended by section 1, chapter 399, 1963 S.L.

regardless of whether or not they are in existence at the time of the sale of any subscription; provided that the words "magazines and other periodicals" as used herein shall not include newspapers nor shall they include magazines or periodicals that are furnished free by a nonprofit corporation or organization to its members or because of payment by its members of membership fees or dues;

3. "Retail sale" or "sale at retail" means the sale, including the leasing or renting, 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 steam, gas, electricity, water, and communication service to retail consumers or users, and includes the ordering, selecting or aiding a customer to select any goods, wares, or merchandise from any price list or catalog, which the customer might order, or be ordered for such customer to be shipped directly to such customer. By the term "processing" is meant any tangible personal property including containers which it is intended, by means of fabrication, compounding, manufacturing, producing or germination shall become an integral or an ingredient or component part of other tangible personal property intended to be sold ultimately at retail. The sale of an item of tangible personal property for the purpose of incorporating it in or attaching it to other real or personal property otherwise exempt from the sales tax shall be considered as a sale of tangible personal property for a purpose other than for processing. The delivery of possession within the state of North Dakota of tangible personal property by a wholesaler or distributor to an out-of-state retailer who does not hold a North Dakota retail sales tax permit or to a person who by contract incorporates such tangible personal property into, or attaches it to, real property situated outside of North Dakota shall not be considered a taxable sale;

4. "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;

5. "Retailer" includes every person engaged in the business of selling, including leasing or renting, tangible goods, wares, or merchandise at retail, or furnishing of steam, gas, electricity, water and communication services, and tickets or admission to places of amusement and athletic events as provided in this chapter, and shall include any person as herein defined who by contract or otherwise agrees to furnish for a consideration a totally or partially finished product consisting in whole or in part of tangible personal property subject to the sales tax herein provided, and all items of tangible personal property entering into the performance of

such contract as a component part of the product agreed to be furnished under said contract shall be subject to the sales tax herein provided; and the sales tax thereon shall be collected by the contractor from the person for whom the contract has been performed in addition to the contract price agreed upon, and shall be remitted to the state in manner provided in this chapter;

6. "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, however, 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 days from the date of sale thereof that only such portion of the sale amount thereof shall be accounted for, for the purpose of imposition of tax imposed by this chapter, as has actually been received in cash by the retailer during each quarterly period as defined herein. "Gross receipts" shall also mean, with respect to the leasing or renting of tangible personal property, the amount of consideration, valued in money, whether received in money or otherwise, received from the leasing or renting of only such tangible personal property the transfer of title to which has not been subjected to a retail sales tax in this state. "Gross receipts" shall also mean, with respect to subscriptions to magazines and other periodicals, the amount of consideration, valued in money, whether received in money or otherwise, received from the sale of such subscriptions regardless of whether or not such magazines or periodicals are to be delivered in the future and regardless of whether or not they are in existence at the time of the sale of any subscription;

7. "Relief agency" means the state, any county, city and county, city or district thereof, or an agency engaged in actual relief work;

8. "Commissioner" means the tax commissioner of the state of North Dakota; and

9. "Local governmental unit" means incorporated cities, towns and villages, counties, school districts and townships.

Approved March 21, 1963.

CHAPTER 399

H. B. No. 559

(Anderson (McHenry), Boutilier, Hauf, Frank, Tescher, Mosal)
(Wilkie, Bier)

SALES TAX RATE AND BASE

AN ACT

To amend and reenact subsections 2, 3, and 5 of section 57-39-01, sections 57-40-10, 57-39-02, 57-39-06, 57-40-02, and 57-40.1-02 of the North Dakota Century Code, relating to the definition of the words "sale", "retail sale", and "retailer" and relating to the imposition of a sales tax and use taxes upon sales of certain tangible personal property and services during the 1963-1965 biennium.

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

§ 1. **Amendment.**) Subsections 2, 3, and 5 of section 57-39-01* of the North Dakota Century Code and Supplement thereto are hereby amended and reenacted to read as follows:

2. "Sale" means any transfer of title or possession, exchange or barter, conditional or otherwise, in any manner or by any means whatsoever, for a consideration, and includes the furnishing of services relating to personal property, the furnishing or service of steam, gas, electricity, water, or communication, the furnishing of hotel, motel, or tourist court accommodations, the furnishing of tickets or admissions to any place of amusement, athletic event or place of entertainment including the playing of any machine for amusement or entertainment in response to the use of a coin, and sales of subscriptions to magazines and other periodicals regardless of whether or not such magazine or periodicals are to be delivered in the future and regardless of whether or not they are in existence at the time of the sale of any subscription; provided that the words "magazines and other periodicals" as used herein shall not include newspapers nor shall they include magazines or periodicals that are furnished free by a nonprofit corporation or organization to its members or because of payment by its members of membership fees or dues;
3. "Retail sale" or "sale at retail" means the sale, including the leasing or renting, to a consumer or to any person

*Note: Section 57-39-01 was also amended by chapter 398 of the 1963 Session Laws.

for any purpose, other than for processing or for resale, of tangible personal property; the sale of steam, gas, electricity, water, and communication service to retail consumers or users; the ordering, selecting or aiding a customer to select any goods, wares, or merchandise from any price list or catalog, which the customer might order, or be ordered for such customer to be shipped directly to such customer; the sale or furnishing of hotel, motel, or tourist court accommodations, services relating to personal property, tickets or admissions to any place of amusement, athletic event or place of entertainment including the playing of any machine for amusement or entertainment in response to the use of a coin; and the sales of magazines and other periodicals. By the term "processing" is meant any tangible personal property including containers which it is intended, by means of fabrication, compounding, manufacturing, producing or germination shall become an integral or an ingredient or component part of other tangible personal property intended to be sold ultimately at retail. The sale of an item of tangible personal property for the purpose of incorporating it in or attaching it to other real or personal property otherwise exempt from the sales tax shall be considered as a sale of tangible personal property for a purpose other than for processing; the delivery of possession within the state of North Dakota of tangible personal property by a wholesaler or distributor to an out-of-state retailer who does not hold a North Dakota retail sales tax permit or to a person who by contract incorporates such tangible personal property into, or attaches it to, real property situated outside of North Dakota shall not be considered a taxable sale;

5. "Retailer" includes every person engaged in the business of leasing or renting hotel, motel, or tourist court accommodations, and every person engaged in the business of selling tangible goods, wares, or merchandise at retail, or furnishing of steam, gas, electricity, water and communication services, or tickets or admission to places of amusement, entertainment and athletic events including the playing of any machine for amusement or entertainment in response to the use of a coin, or services relating to personal property, or magazines, or other periodicals; and shall include any person as herein defined who by contract or otherwise agrees to furnish for a consideration a totally or partially finished product consisting in whole or in part of tangible personal property subject to the sales tax herein

provided, and all items of tangible personal property entering into the performance of such contract as a component part of the product agreed to be furnished under said contract shall be subject to the sales tax herein provided and the sales tax thereon shall be collected by the contractor from the person for whom the contract has been performed in addition to the contract price agreed upon, and shall be remitted to the state in manner provided in this chapter; and shall include the state or any municipality furnishing steam, gas, electricity, water, or communication service to members of the public in its proprietary capacity;

§ 2. Amendment.) Section 57-39-02 of the North Dakota Century Code Supplement is hereby amended and reenacted to read as follows:

57-39-02. Tax Imposed.) Except as otherwise expressly provided in this chapter, there is hereby imposed, beginning the first day of July, 1963, and ending the first day of July, 1965, a tax of two and one-quarter percent upon the gross receipts of retailers from all sales at retail including the leasing or renting of tangible personal property as hereinafter provided in this section, within the state of North Dakota of the following to consumers or users:

1. Tangible personal property, consisting of goods, wares, or merchandise;
2. The furnishing or service of steam, gas, electricity, water, or communication services;
3. Tickets or admissions to places of amusement or entertainment or athletic events, including amounts charged for participation in an amusement, entertainment or athletic activity, and including the playing of any machine for amusement or entertainment in response to the use of a coin;
4. Magazines and other periodicals, including subscriptions thereto;
5. The leasing or renting of hotel, motel, or tourist court accommodations for periods of less than thirty consecutive calendar days or one month;
6. Services furnished in repairing, altering, restoring, or cleaning any tangible personal property provided that this subsection shall not apply to retailers who furnish such services to agricultural producers with respect to agricultural products; and
7. The leasing or renting of tangible personal property the transfer of title to which has not been subjected

to a retail sales tax under this chapter or a use tax under the provisions of chapter 57-40 or chapter 57-40.1.

§ 3. **Amendment.)** Section 57-39-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-39-06. Tax To Be Added to Purchase Price and Be a Debt.) Retailers shall add the tax imposed under this chapter, or the average equivalent thereof, to the sales price or charge and when added such taxes shall constitute a part of such price or charge, shall be a debt from the consumer or user to the retailer until paid, and shall be recoverable at law in the same manner as other debts.

In adding such tax to the price or charge, retailers shall adopt the following bracket system for the application of the tax:

\$0.01 to \$0.19.....	no tax
.20 to .59.....	1¢ tax
.60 to .99.....	2¢ tax
1.00 to 1.49.....	3¢ tax
1.50 to 1.99.....	4¢ tax
2.00 to 2.49.....	5¢ tax
2.50 to 2.99.....	6¢ tax
3.00 to 3.49.....	7¢ tax
3.50 to 3.99.....	8¢ tax

An additional tax of 1¢ for each 50¢, or fraction thereof, over \$3.99 except that for each full \$4.00 there shall be collected a tax of 9¢.

§ 4. **Amendment.)** Section 57-40-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

***57-40-02. Tax Imposed.)** An excise tax is imposed on the storage, use, or consumption in this state of tangible personal property purchased at retail for storage, use, or consumption in this state, at the rate of two and one-quarter percent of the purchase price of such property. Except as limited by section 57-40-10, an excise tax is imposed on the storage, use, or consumption in this state of tangible personal property not originally purchased for storage, use, or consumption in this state at the rate of two and one-quarter percent of the fair market value of such property at the time it was brought into this state.

§ 5. **Amendment.)** Section 57-40-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

***Note:** Section 57-40-02 was also amended by section 5 of chapter 400 and by chapter 404 of the 1963 Session Laws.

57-40-10. Articles Taxed in Other States.) If any article or tangible personal property has been subjected already to a tax by any other state in respect to its sale or use in an amount less than the tax imposed by this chapter, the provisions of this chapter shall apply, but at a rate measured by the difference only between the rate fixed in this chapter and the rate by which the previous tax upon the sale or use was computed. If the tax imposed in such other state is the same or more, then no tax shall be due on such article. The provisions of this section shall apply only if such other state allows a tax credit with respect to the retail sales and use taxes imposed by this state which is substantially similar in effect to the credit allowed by this section.

§ 6. Amendment.) Section 57-40.1-02 of the North Dakota Dakota Century Code as created by House Bill No. 740 (chapter 405) of the Thirty-eighth Legislative Assembly is hereby amended and reenacted to read as follows:

57-40.1-02. Tax Imposed.) There is hereby imposed an excise tax of two and one-quarter percent of the purchase price of any motor vehicle purchased or acquired for use on the streets and highways of this state and required to be registered under the laws of this state, and a like rate of tax upon the purchase price of any mobile home purchased or acquired for use in this state.

Filed March 25, 1963.

Not approved or disapproved by Governor.

CHAPTER 400

S. B. No. 346
(Chesrown)

SALES AND USE TAX ADMINISTRATION

AN ACT

To amend and reenact section 57-39-08 and subsection 7 of section 57-39-12 and to create and enact a subsection to section 57-39-10, of the North Dakota Century Code, relating to administration of the retail sales tax law; to amend and reenact subsection 5 of section 57-40-01, section 57-40-02, subsection 1 of section 57-40-06, and section 57-40-08 of the North Dakota Century Code, relating to administration of the use tax law; and to repeal subsection 10 of section 57-39-11 of the North Dakota Century Code Supplement.

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

§ 1. Amendment.) Section 57-39-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-39-08. Records Required.) Every retailer required to make a report and pay any tax under this chapter, shall preserve such records of the gross proceeds of sale as the commissioner may require and every retailer shall preserve for a period of six years all invoices and other records of goods, wares, or merchandise purchased for resale. All such books, invoices, and other records shall be open to examination at any time by the commissioner or any of his duly authorized agents.

§ 2. Amendment.) Section 57-39-10 of the North Dakota Century Code is hereby amended by creating and enacting a new subsection to read as follows:

Remittances on account of tax due under this chapter shall not be deemed or considered payment thereof unless or until the commissioner shall have collected or received the amount due for such tax in cash or equivalent credit.

§ 3. Amendment.) Subsection 7 of section 57-39-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

7. All permits in effect at the time this chapter takes effect are hereby continued and shall remain in full force and effect unless revoked as herein provided; provided that the commissioner may issue a new form of permit to replace, at no charge to the permit holders, all permits previously granted and issued that have not been revoked or surrendered.

§ 4. **Amendment.)** Subsection 5 of section 57-40-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

5. "Purchase price" means the total amount for which tangible personal property is sold, leased, or rented, valued in money, whether paid in money or otherwise, but cash discounts allowed and taken on sales shall not be included;

§ 5. **Amendment.)** Section 57-40-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

***57-40-02. Tax Imposed.)** An excise tax is imposed on the storage, use, or consumption in this state of tangible personal property purchased at retail for storage, use, or consumption in this state, at the rate of two percent of the purchase price of such property. Except as limited by section 57-40-10, an excise tax is imposed on the storage, use or consumption in this state of tangible personal property not originally purchased for storage, use, or consumption in this state at the rate of two percent of the fair market value of such property at the time it was brought into this state; provided that in the case of tangible personal property purchased at retail for fabricating or manufacturing into items to be incorporated into real estate by the purchaser at retail, fair market value shall mean the purchase price of materials used in fabricating or manufacturing such items.

§ 6. **Amendment.)** Subsection 1** of section 57-40-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Every retailer maintaining a place of business in this state and making sales of tangible personal property for use in this state, not exempted under the provisions of section 57-40-03, before making any sales shall obtain a permit from the commissioner to collect the tax imposed by this chapter, which permit shall be subject to all of the requirements, conditions and fees for its issuance that apply with respect to a retail sales tax permit, and at the time of making such sales, whether within or without the state, shall except as otherwise provided in subsection 1 of section 57-40-05 collect the tax imposed by this chapter from the purchaser, and give to the purchaser a receipt therefor in the manner

***Note:** Section 57-40-02 was also amended by section 4 of chapter 399 and by chapter 404 of the 1963 S.L.

****Note:** Subsection 1 of section 57-40-06 was also amended by section 15, chapter 304, 1963 S.L. The wording of chapter 304 is identical to the wording contained in this chapter.

and form prescribed by the tax commissioner, if the commissioner, by regulation, shall require such receipt. Each such retailer shall list with the tax commissioner the name and address of all his agents operating in this state, and the location of each of his distribution or sales houses or offices or other places of business in this state;

§ 7. Amendment.) Section 57-40-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-40-08. Records Required.) Each retailer required or authorized to collect the tax imposed by section 57-40-02, and each person using in this state tangible personal property purchased on or after July first 1939, shall keep such records, receipts, invoices, and other pertinent papers as the tax commissioner shall require and each such retailer or person shall preserve for a period of six years all invoices and other records of such tangible personal property purchased for resale or for use. The commissioner, or any duly authorized agent, may examine the books, papers, records, and equipment of any person who sells tangible personal property or who is liable for such tax, and may investigate the character of the business of any such person to verify the accuracy of any return made, or if no return was made, to ascertain and determine the amount due. Any such books, papers, and records shall be made available within this state for such examination upon reasonable notice if the tax commissioner shall make an order to that effect.

§ 8. Repeal.) Subsection 10 of section 57-39-11 of the North Dakota Century Code Supplement is hereby repealed.

Approved March 21, 1963.

CHAPTER 401

H. B. No. 857
(Lundene, Vogel)

TRANSIENT MERCHANTS' SALES TAX PERMITS

AN ACT

To amend and reenact subsection 3 of section 57-39-12 of the North Dakota Century Code, relating to the issuance of retail sales tax permits, the display of them, and, in the case of a transient merchant, the showing of the permit by the transient merchant before soliciting a sale, or offering to sell, any goods, wares or merchandise.

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

§ 1. **Amendment.)** Subsection 3 of section 57-39-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

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. Any transient merchant who is in the business of soliciting or making sales at retail to consumers shall, before soliciting such a sale from a consumer, exhibit to the consumer or prospective consumer the retail sales tax permit required by this section; for the purposes of this sentence the term "transient merchant" shall include any person, individual, copartnership, or corporation, either as principal or agent, who solicits, engages in, does, or transacts any temporary or transient business in this state, either in one locality, or in traveling from place to place in this state, selling goods, wares, and merchandise, who does not intend to become and does not become a permanent merchant of such place, and who, for the purpose of carrying on such business, hires, leases, occupies, or uses, a building, structure, lot, tract, railroad car, motor vehicle, or display case or sample case of any kind for the exhibition and sale of such goods, wares, and merchandise.

Approved March 4, 1963.

CHAPTER 402

H. B. No. 544

(Brown, Saugstad, Knudsen, Aamoth)
(Anderson (McHenry), Fossum, Hauf)
(From LRC Study)

UNUSED SALES TAX PERMITS

AN ACT

To amend and reenact subsection 5 of section 57-39-12 of the North Dakota Century Code, relating to the revocation of retail sales tax permits.

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

§ 1. Amendment.) Subsection 5 of section 57-39-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

5. Whenever the holder of a permit fails to comply with any of the provisions of this chapter or any rules or regulations prescribed by the commissioner and adopted under this chapter, or whenever the holder of a permit shall file returns showing no tax due for four consecutive quarters, 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 also shall have the power to restore licenses after such revocation;

Approved February 18, 1963.

CHAPTER 403

H. B. No. 543

(Brown, Saugstad, Knudsen, Aamoth, Fossum)
(Anderson (McHenry), Hauf, Backes)
(From LRC Study)

STATUTE OF LIMITATIONS ON SALES TAX ACTIONS

AN ACT

To amend and reenact subsection 2 of section 57-39-15 and subsection 1 of section 57-39-20 of the North Dakota Century Code, relating to time limitations in which a court proceeding may be commenced for the collection of unpaid sales taxes, and to the employment of sales and use tax auditors by the tax commissioner.

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

§ 1. Amendment.) Subsection 2 of section 57-39-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. If any tax imposed by this chapter or by chapter 57-40 remains unpaid, a proceeding in court for the collection of such tax may be begun at any time within six years after the due date of such tax; provided that no limitation of time to collect such tax shall apply if the failure to pay such tax was due to the fraudulent intent or willful attempt of the taxpayer in any manner to evade the tax. The limitations provided by this amendment in regard to a commencement of court proceedings shall not apply to any assessment of tax made by the tax commissioner prior to July 1, 1963.

§ 2. Amendment.) Subsection 1 of section 57-39-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. The commissioner may appoint such agents, auditors, clerks and employees as he may deem necessary, fix their salaries and compensation and prescribe their duties and powers, and may remove such persons so appointed by him. Each auditor appointed by the commissioner shall have had at least three years experience, or the educational equivalent thereof, in the auditing and checking of books of account;

Approved February 18, 1963.

CHAPTER 404

H. B. No. 815

(Dornacker, Haugland, Knudsen, Gackle, Haugen)

USE TAX IMPOSITION

AN ACT

To amend and reenact section 57-40-02 of the North Dakota Century Code, relating to the imposition of an excise tax.

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

§ 1.) Section 57-40-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

***57-40-02. Tax Imposed.)** An excise tax is imposed on the storage, use, or consumption in this state of tangible personal property purchased at retail for storage, use, or consumption in this state, at the rate of two percent of the purchase price of such property. Except as limited by section 57-40-10, an excise tax is imposed on the storage, use, or consumption in this state of tangible personal property not originally purchased for storage, use, or consumption in this state at the rate of two percent of the fair market value of such property at the time it was brought into this state; provided that in the case of tangible personal property purchased at retail for fabricating or manufacturing into items to be incorporated into real estate by the purchaser at retail, fair market value shall mean the purchase price of materials used in fabricating or manufacturing such items. Notwithstanding any exemption provision or other provision of law, an excise tax is hereby imposed on the storage, use, or consumption in this state of all tangible personal property purchased at retail for storage, use, or consumption in this state at the rate of two percent of the purchase price of such property if such property was imported from a foreign country by the retailer thereof; provided, however, that such tax shall not apply to the use, storage or consumption of such property by the United States or any of its instrumentalities or by the state of North Dakota or any of its departments, institutions or political subdivisions or railway cars and locomotives used in interstate commerce and tangible personal property which becomes a component part thereof.

Approved March 21, 1963.

***Note:** Section 57-40-02 was also amended by section 5 of chapter 400 and by section 4, chapter 399, of the 1963 S.L.

CHAPTER 405

H. B. No. 740
(Hauf, Berg)

MOTOR VEHICLE USE TAX

AN ACT

To create and enact chapter 57-40.1 of the North Dakota Century Code, relating to the imposition of an excise tax on motor vehicles and mobile homes, providing for the administration of the provisions of said chapter and the collection and distribution of revenues derived therefrom, and providing for penalties for violation of the provisions thereof; to amend and reenact the following provisions of the North Dakota Century Code: subsection 8 of section 39-01-01 defining semitrailer, subdivision j of subsection 2 of section 39-04-18 and subsection 3 of section 39-04-19, relating to exemptions for motor vehicles of certain disabled veterans, section 39-04-38, relating to exemption of certain vehicles from personal property taxes, subsection 6 of section 39-05-01, as amended, defining motor vehicle for title registration purposes, section 39-05-12, as amended, relating to carrying of registration card, inspection thereof, and penalty for violation thereof, and subsection 4 of section 57-40-03, relating to exemption of certain vehicles from use tax; and to repeal subsection 9 of section 57-40-01 and sections 57-40-12, 57-40-13 and 57-40-14 of the North Dakota Century Code.

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

§ 1.) Chapter 57-40.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

57-40.1-01. Definitions.) The following words, terms and phrases, when used in this chapter, have the meaning ascribed to them in this section, except where the context and subject matter clearly indicate a different meaning:

1. "Person" shall include any natural person, firm, co-partnership, association, or corporation;
2. "Motor vehicle registrar" shall mean the registrar of motor vehicles who is the officer in charge of the motor vehicle department of this state;
3. "Vehicle" shall include every device in, upon, or by which any person or property may be transported or drawn upon a public highway, except devices moved by human power or animal power or used exclusively upon stationary rails or tracks;
4. "Trailer" shall include every vehicle without motive power designed to carry property or passengers wholly on its own structure and to be drawn by a motor vehicle and for which a certificate of title is required to be

- obtained pursuant to the provisions of chapter 39-05, except that it shall not include a "house trailer" or "mobile home";
5. "Semitrailer" shall include every vehicle of the trailer type so designed and used in conjunction with a motor vehicle that some part of its own weight and that of its own load rests upon or is carried by another motor vehicle and for which a certificate of title is required to be obtained pursuant to the provisions of chapter 39-05, except that it shall not include a "house trailer" or "mobile home";
 6. "Motor vehicle" shall include every vehicle which is self-propelled, every vehicle which is propelled by electric power obtained from overhead trolley wires but not operated upon rails, and every trailer and semi-trailer for which a certificate of title is required to be obtained pursuant to the provisions of chapter 39-05;
 7. "Mobile home" shall mean and include "house trailer" and said terms shall include every vehicle without motive power which is designed and intended for use as living or sleeping quarters for people and which is not used for commercial hauling of passengers;
 8. "Use" shall mean the exercise by any person of any right or power over a motor vehicle or a mobile home incident to the ownership or possession of such a vehicle, except that it shall not include the sale or holding for sale of such a vehicle in the regular course of business;
 9. "Purchase price" shall mean the amount paid, whether in cash, trade-in allowance, or other consideration, for the motor vehicle or mobile home, except that—
 - a. when a motor vehicle or mobile home is purchased or acquired for less than adequate and full consideration, it shall mean the reasonable market value thereof at the time it was purchased or acquired, or
 - b. when a motor vehicle or mobile home is manufactured by a person who registers it under the laws of this state, it shall mean the manufactured cost of such motor vehicle or mobile home and manufactured cost shall mean the amount expended for materials, labor and other properly allocable costs of manufacture except that, in the absence of actual expenditures for the manufacture of a part or all of the motor vehicle or mobile home, manufactured costs shall mean the reasonable value of the completed motor vehicle or mobile home;
 10. "Purchase" shall mean the obtaining of ownership of a motor vehicle or mobile home in return for the

payment of an equivalent monetary consideration therefor;

11. "Acquired" shall mean the obtaining of ownership or possession of a motor vehicle or mobile home in any way other than by purchase, except that it shall not include acquisition by inheritance from, or by bequest of, a decedent who owned it;
12. "Purchaser" shall mean any person owning or in possession of a motor vehicle or mobile home who makes application to the motor vehicle registrar for registration plates or a certificate of title for such vehicle.

***57-40.1-02. Tax Imposed.)** There is hereby imposed an excise tax of two percent of the purchase price of any motor vehicle purchased or acquired for use on the streets and highways of this state and required to be registered under the laws of this state, and a like rate of tax upon the purchase price of any mobile home purchased or acquired for use in this state.

57-40.1-03. Presumption.) For the purpose of the proper administration of this chapter and to prevent evasion of the tax the following presumptions shall apply:

1. Evidence that a motor vehicle or mobile home was sold for delivery in this state shall be prima facie evidence that it was sold for use in this state;
2. When an application for registration plates or for a certificate of title for a motor vehicle or for a mobile home is received by the motor vehicle registrar within thirty days of the date it was purchased or acquired by the purchaser, it shall be presumed, until the contrary is shown by the purchaser, that,
 - a. in the case of a motor vehicle, it was purchased or acquired for use on the streets and highways of this state, and,
 - b. in the case of a mobile home, it was purchased or acquired for use in this state.

This presumption shall apply whether or not such vehicle was previously titled or registered in another state.

57-40.1-04. Collection of Tax.) The tax imposed by this chapter shall be paid by the purchaser to the motor vehicle registrar at the time that application for the first registration plate or certificate of title of such motor vehicle or mobile home is made within this state. No registration plate or certificate of title shall be issued upon such application until such tax has been paid.

***Note:** Section 57-40.1-02 was subsequently amended by section 6, chapter 399, 1963 S.L.

57-40.1-05. Exemption.) There are specifically exempted from the provisions of this chapter and from computation of the amount of tax imposed by it the following:

1. Any motor vehicle or mobile home upon the sale of which the retail sales tax imposed by the provisions of chapter 57-39 has been paid, provided that this exemption shall not be allowed unless the person making application for registration plates or for a certificate of title for a motor vehicle or mobile home shall furnish to the motor vehicle registrar a certificate from a licensed motor vehicle dealer in this state or from a mobile home dealer, whether or not licensed as such in this state, upon a form furnished by the registrar, certifying that such person has paid the retail sales tax prescribed by the provisions of chapter 57-39;
2. Common carrier vehicles engaged in interstate commerce;
3. Motor vehicles acquired by disabled veterans under the provisions of Public Law 663 of the 79th Congress of the United States as codified into section 1901 of title 38 of the United States Code and any passenger motor vehicle or pickup truck not exceeding ten thousand pounds gross weight subsequently purchased or acquired by such a disabled veteran, provided that this exemption shall be allowed only with respect to one such motor vehicle owned by such a disabled veteran at any one time;
4. Any motor vehicle or mobile home which is expressly exempt from the title registration provisions of chapter 39-05.

57-40.1-06. Credit for Sales or Use Tax Paid in Other States—Reciprocity.) If any motor vehicle or mobile home has been subjected already to a tax by any other state in respect to its sale or use in an amount less than the tax imposed by this chapter, the provisions of this chapter shall apply, but at a rate measured by the difference only between the rate fixed in this chapter and the rate by which the previous tax paid in the other state upon the sale or use was computed. If the rate of tax imposed in such other state is the same or more than the rate of tax imposed by this chapter, then no tax shall be due on such motor vehicle or mobile home. The provisions of this section shall apply only if such other state allows a credit with respect to the retail sales tax imposed by this state and the excise tax imposed by this chapter which is substantially similar in effect to the credit allowed by this section.

57-40.1-07. Distribution and Use of Revenue.) All moneys accruing by virtue of section 57-40.1-02, promptly upon collection, shall be paid by the motor vehicle registrar to the state treasurer and by him shall be transferred and credited to the motor vehicle registration fund.

57-40.1-08. Penalties.) Any person who makes any false statement with intent to defeat or evade the tax imposed by this chapter or who fails to pay such tax when required by this chapter shall be guilty of a misdemeanor for each such offense and shall be punished by a fine of not 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.

§ 2. Amendment.) Subsection 8* of section 39-01-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

8. "Semitrailer" shall include every vehicle of the trailer type so designed and used in conjunction with a motor vehicle that some part of its own weight and that of its own load rests upon or is carried by a motor vehicle, except that it shall not include a "house trailer" or "mobile home" as defined in subsection 7 of this section;

§ 3. Amendment.) Subdivision j of subsection 2 of section 39-04-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- j. Passenger motor vehicles or pickup trucks not exceeding ten thousand pounds gross weight owned and operated by a disabled veteran under the provisions of Public Law 663 of the 79th Congress of the United States as codified into section 1901 of title 38 of the United States Code provided, however, that such vehicles display a distinctive license plate issued by the motor vehicle registrar upon the payment of one dollar. This exemption shall also apply to any passenger motor vehicle or pickup truck not exceeding ten thousands pounds gross weight subsequently purchased or acquired by such a disabled veteran, provided that it shall be allowed only with respect to one such motor vehicle owned by such a disabled veteran at any one time.

§ 4. Amendment.) Subsection 3 of section 39-04-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. Motor vehicles acquired by disabled veterans under the provisions of Public Law 663 of the 79th Congress of

***Note:** This definition was also amended as subsection 55 of section 39-01-01 by section 2, chapter 264, 1963 S.L.

the United States as codified into section 1901 of title 38 of the United States Code shall be exempt from the payment of state sales or use tax and, if paid, such veterans shall be entitled to a refund. This exemption shall also apply to any passenger motor vehicle or pickup truck not exceeding ten thousand pounds gross weight subsequently purchased or acquired by such a disabled veteran, provided that it shall be allowed only with respect to one such motor vehicle owned by such a disabled veteran at any one time.

§ 5. **Amendment.)** Section 39-04-38 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-04-38. Taxes or Fees Provided for To Be in Lieu of Other State or Local Personal Property Taxes.) The taxes or fees provided for in this chapter shall be in lieu of all other personal property taxes, either state or local, upon such motor vehicles and upon any trailer or semitrailer for which a certificate of title is required to be issued and has been issued pursuant to the provisions of chapter 39-05.

§ 6. **Amendment.)** Subsection 6 of section 39-05-01 of the North Dakota Century Code, as amended, is hereby amended and reenacted to read as follows:

6. The term "motor vehicle" as used in this chapter shall include a house trailer or mobile home and any trailer or semitrailer that is designed and used for the commercial hauling of property or passengers.

§ 7. **Amendment.)** Section 39-05-12 of the North Dakota Century Code, as amended, is hereby amended and reenacted to read as follows:

39-05-12. Registration Card To Be Carried in or on Vehicle—Inspection of Card—Penalty.) The registration card issued for a vehicle shall be carried in the driver's compartment of the vehicle or, in the case of a house trailer or mobile home or a trailer or semitrailer regardless of when such vehicle was acquired, inside or on such vehicle, at all times while the vehicle is being operated upon a highway in this state. Such card shall be subject to inspection by any peace officer. Any person violating any of the provisions of this section shall be guilty of a misdemeanor and shall be punished by a fine of not more than twenty-five dollars, or by imprisonment for not more than thirty days, or by both such fine and imprisonment.

§ 8. **Amendment.)** Subsection 4 of section 57-40-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. Any motor vehicle, mobile home, trailer or semitrailer which is registered for a license under the motor vehicle laws of this state.

§ 9. **Repeal.**) Subsection 9 of section 57-40-01 and sections 57-40-12, 57-40-13 and 57-40-14 of the North Dakota Century Code are hereby repealed.

Approved March 21, 1963.

CHAPTER 406

S. B. No. 135
(Mutch, Kisse, Solberg)

MOTOR FUEL TAX REFUNDS

AN ACT

To create and enact section 57-50-05.1 and to amend and reenact section 57-50-05 of the North Dakota Century Code to provide for refund of motor fuel tax to state or political subdivision and prohibit refunds to private individuals or corporations, except liquefied petroleum gas used for heating purposes, and declaring an emergency.

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

§ 1. **Amendment.**) Section 57-50-05 of the North Dakota Century Code Supplement is hereby amended and reenacted to read as follows:

57-50-05. Refund to State or Political Subdivision.) When any construction, reconstruction or maintenance of a public road, highway, street or airport is undertaken by the state or any county, city, village, township, park district or other municipality in the state and where public funds of the United States, state, county, city, village, township, park district or other municipality are directly used for the purchasing of motor vehicle fuel to be used in publicly owned vehicles for such construction, reconstruction or maintenance, such motor vehicle fuel shall be subject to a refund of the tax paid thereon as provided for in this chapter and under the same terms and conditions.

§ 2.) Section 57-50-05.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

57-50-05.1. Refunds to Private Individuals or Corporations Prohibited—Exception.) No tax refund shall be paid to any person, firm or private corporation on any motor vehicle fuel

used, except liquefied petroleum gas used for heating purposes, which is paid for from public funds of the United States, state, county, city, village, township, park district or other municipality.

§ 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 8, 1963.

CHAPTER 407

S. B. No. 268
(Morgan, Wadeson)

ASSIGNMENT OF REFUND CLAIMS

AN ACT

To amend and reenact section 57-50-11 and to create and enact section 57-50-11.1 of the North Dakota Century Code, relating to the assignment of motor vehicle fuel refund claims, requiring a permit during a certain period and providing for the revocation thereof.

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

§ 1. **Amendment.**) Section 57-50-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-50-11. Assignment of Refund Claims.) Any person eligible for motor fuel tax refund under this chapter, who has been sold such fuel by a seller on open account with the seller paying the refundable fuel tax, may assign to such seller his claim for such refund by attaching the assignment agreement to the refund claim form to be submitted by the claimant in accordance with section 57-50-02. Where such assignment of claim is made, and the claim is allowed under the provisions of this chapter, the check or warrant issued therefor shall be made payable to both the claimant and his assignee hereunder.

§ 2.) Section 57-50-11.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

57-50-11.1. Permit Required During Certain Period—Revocation Thereof.) Refund claims on motor fuel tax resulting from sales of motor fuel occurring during the period from the first day of April through the thirtieth day of September may

be assigned to the seller of the fuel when any sales receipt for the purchase of motor fuel on which a tax refund is owing under this chapter becomes thirty days or more old. The purchaser may assign to the seller his claim for refund by acknowledging the assignment agreement in writing on the face of the sales receipt. Before any person shall be allowed to assign his motor fuel tax refund to the seller during this period, he must have an unrevoked permit issued by the state auditor authorizing such assignment. The permit herein shall be issued to every applicant upon completion and forwarding to the state auditor an application form prescribed and furnished by the state auditor. Such application shall contain the sworn statement of the applicant that he is engaged in the business of agriculture and intends to use any fuel so assigned for agricultural purposes only. Such permit shall not be transferable and shall be valid for the person in whose name it is issued only. Permits issued under the provisions of this section shall be valid and effective until revoked by the state auditor. Where such assignment is made the seller may forward it to the state auditor for credit on his fuel tax return in the amount of the refund owing on the assigned sales receipt. Any purchaser who shall assign his claim for refund under the provisions of this section must file an annual report with the state auditor within the time limitation set forth in section 57-50-03. If any purchaser shall fail to file such report within the period of time designated herein the state auditor shall revoke such permit authorizing such assignment in the same manner as provided for in section 57-54-11. Such report forms shall be furnished by the state auditor in substantially the same form as is prescribed in section 57-50-02.

Approved March 18, 1963.

CHAPTER 408

S. B. No. 78

(Roen, Redlin, Erickson, Becker, Solberg)

ALLOCATION OF OIL AND GAS PRODUCTION TAX

AN ACT

To amend and reenact subsection 3 of section 57-51-15 of the North Dakota Century Code, relating to the allocation to counties of revenues from oil and gas gross production tax.

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

§ 1. Amendment.) Subsection 3 of section 57-51-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. Forty percent of all revenues as may be by the legislature be allocated to any county hereunder shall be credited by the county treasurer to the county road and bridge fund; provided, however, that the board of county commissioners may by resolution transfer, use or irrevocably pledge so much thereof and for such period as it may deem necessary and in the best public interest for the purpose of conducting, undertaking and participating in underground or surface water surveys and investigations, development, construction, reconstruction and maintenance of works, dams and projects for the control, distribution and beneficial utilization of water resources. Forty-five percent of all revenues allocated to any county shall be apportioned by the county treasurer quarterly to school districts within the county on the average daily attendance distribution basis, as certified to him by the county superintendent of schools. Fifteen percent of all revenues allocated to any county hereunder shall be paid quarterly by the county treasurer to the incorporated cities and villages of the county based upon the population of each incorporated city and village according to the last official decennial federal census.

Approved March 18, 1963.

CHAPTER 409

S. B. No. 128
(Mutch, Kisse, Solberg)

SPECIAL FUEL TAX, EXEMPTIONS

AN ACT

To amend and reenact section 57-52-04 of the North Dakota Century Code to provide for the imposition of a tax on special fuel and providing for certain exemptions.

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

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

57-52-04. Tax Imposed — Exemptions.) There is hereby levied and imposed an excise tax of six cents per gallon on the sale or delivery of special fuel to any special fuel user, except that special fuel to be used for heating, agricultural, industrial or railroad purposes shall be exempt from the tax imposed by this chapter. Said tax shall attach at the time of sale, delivery, or transfer of title of such special fuel to a special fuel user. Such tax shall be collected from the special fuel user by the special fuel dealer and paid over to the state auditor as hereinafter provided. The tax imposed herein shall be refundable when used for non-highway purposes, and the provisions and procedures of chapter 57-50 relating to the refund of motor fuel taxes shall apply to the tax imposed by this chapter.

Approved March 4, 1963.

CHAPTER 410

S. B. No. 127

(Mutch, Kisse, Solberg)

REVOCATION OF MOTOR FUEL DEALER'S LICENSE

AN ACT

To amend and reenact section 57-54-11 of the North Dakota Century Code to provide for the revocation of motor fuel dealer license.

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

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

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

Approved March 18, 1963.

CHAPTER 411

H. B. No. 608
(Stockman, Paulsen)

TAXATION OF MOBILE HOMES

AN ACT

To provide for the taxing of mobile homes, sleeping trailers, and camping trailers in lieu of any personal property taxes thereon, providing for the collection and disbursement of such license fees, and providing penalties.

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

§ 1. County Auditor to Tax Mobile Homes.) On or before January fifteenth of each year all nonself-propelled mobile homes, sleeping trailers, and camping trailers, hereinafter referred to as "trailers", shall be taxed by the county auditor of the county of such trailer owner's domicile upon receipt of such owner's tax. The tax shall be valid in any county of this state during the period for which it was issued.

§ 2. Application for Taxing—Form—Contents.) No trailer tax decal shall be issued unless the trailer owner files an application with the county auditor. Application shall be on duplicate forms, furnished by the county auditor, and shall contain, in addition to any other information the county auditor shall request, a full description of the trailer and its contents, including the name of the manufacturer, serial or identification number, age, length, and width of such trailer, owner's name and address, and space for the owner to list his personal property contained in such trailer. The duplicate of each application, the number of the tax decal issued to the applicant, and one dollar shall be paid by the applicant, and shall be retained by the county auditor for administration costs.

§ 3. When Taxes Become Due and Delinquent.) The tax for a trailer shall become due upon expiration of fifteen days after such trailer is brought into this state and upon January fifteenth of each year thereafter. Such tax shall become delinquent if not paid within fifteen days after it becomes due. A penalty of ten cents a day shall be added to the amount due for each and every day such tax shall be delinquent, for not more than fifteen days, and two dollars for every thirty days, or fraction thereof, not to exceed one hundred and fifty days. Taxes, other than the per capita school tax and decal charge, shall be prorated on a calendar quarterly basis, and the county auditor may, in his discretion for good cause shown,

authorize payment of the tax in not to exceed four equal monthly installments, without penalty, if the amount of the tax due is forty dollars or more. The penalty provided in this section shall also apply to installment payments, which shall become delinquent fifteen days after the date said installment was due and payable.

§ 4. Taxes — How Determined — Disbursement.) The tax for each trailer shall be determined by the county auditor by placing an evaluation on such trailer and its contents pursuant to standards and guides as determined by the state tax commissioner and applying such evaluation to the total of all of the most recent mill levies applying to property within the taxing district wherein the trailer is located. The county auditor shall also collect the trailer owner's per capita school tax and the remainder of such tax collected shall be disbursed in the same manner as other personal property and per capita school taxes.

§ 5. Taxes in Lieu of Personal Property Tax.) The taxes provided for in this chapter shall be in lieu of all personal property taxes upon such trailers and their contents for the calendar year for which the tax decal is valid. However, such taxes shall in no way be construed as exempting any trailer owner from the requirements of registering such trailer with the motor vehicle registrar or securing license plates entitling such trailer to be hauled upon the state's highways pursuant to section 39-18-03.

§ 6. Tax Decals.) The tax decal shall be decal type and of a size and design specified by the motor vehicle registrar. The registrar shall arrange for the manufacture of such decals and shall supply each county auditor with one decal for each trailer in the county upon request, and the costs to be paid by the county.

§ 7. Unlawful to Use Tax Decal on Any Other Trailer.) Any person who shall use or allow to be used a tax decal of any trailer taxed pursuant to the provisions of this chapter for any purpose other than the purpose for which it was issued shall be guilty of a misdemeanor and punished by a fine of not more than one hundred dollars, or by imprisonment for not more than thirty days, or by both such fine and imprisonment.

§ 8. Duty of Trailer Park Operators—Duty of Local Law Enforcement Agency.) It shall be the duty of the owner, operator, or manager of each trailer park, or trailer lot, or any person permitting a trailer to be parked on his property to inform each trailer owner applying for admission to such park, lot or property of the requirements of this chapter and

the penalties for failure to comply. Such information shall also be posted in a conspicuous place on the premises of such lot or property. The local law enforcement agency shall make inspections at least quarterly of each trailer park, trailer lot, or place where trailers are known to be located, for the purpose of determining if the provisions of this chapter are being complied with. If he shall determine that any person is not complying with the provisions of this chapter he shall give such person a warning and inform him that if he fails to comply within ten days after issuance of such warning a summons shall be issued for his arrest. The local law enforcement agency shall then notify the county auditor of such person's name and alleged violation. If the alleged violator does not present proof of his compliance to the county auditor within ten days after issuance of the warning the county auditor shall sign a summons for his arrest.

§ 9. **Rules and Regulations.)** The state tax commissioner may make any rules and regulations that are necessary to carry out the provisions of this chapter.

§ 10. **Exceptions.)** The provisions of this chapter shall not apply to trailers owned by licensed mobile home dealers for purposes of resale.

§ 11. **Collection.)** The provision of section 57-22-21.2 relating to the collection of taxes shall apply to the collection of taxes under the provisions of this Act insofar as they are consistent with the provisions of this Act.

Approved March 21, 1963.

TRUSTS, USES, AND POWERS

CHAPTER 412

H. B. No. 741
(Leahy, Aamoth)

EMPLOYEE TRUSTS

AN ACT

Relating to the exemption of certain trusts from the rule against restraint on alienation and perpetuities.

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

§ 1. Suspension of Power of Alienation—Rule Against Perpetuities—Exception.) A trust created by an employer as part of a stock bonus, pension, disability, death benefit, or profit-sharing plan for the benefit of some or all employees, to which contributions are made by the employer or employees for the purpose of distributing to the employees the earnings or the principal of the fund held in trust, shall not be deemed invalid as violating any existing law or rule of law against perpetuities or suspension of the power of alienation of the title to property; but such trust may continue for such time as may be necessary to accomplish the purposes for which it was created.

Approved March 4, 1963.

WAREHOUSING AND DEPOSITS

CHAPTER 413

H. B. No. 563
(Berg, Anderson (Richland))

WAREHOUSING DEFINITIONS

AN ACT

To amend and reenact subsections 4 and 5 of section 60-02-01 of the North Dakota Century Code, relating to the definitions of track buyer and grain under the public warehouse law, and declaring an emergency.

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

§ 1. Amendment.) Subsections 4 and 5 of section 60-02-01 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

4. "Track buyer" shall include any person, firm, or corporation, except a warehouseman, desiring to purchase grain from a producer for the purpose of loading the same in cars on the track of any railroad company or in trucks at any loading point in this state for shipment;
5. "Grain" shall include wheat, durum, oats, rye, barley, buckwheat, flaxseed, speltz, safflower, sunflower seeds, tame mustard, peas, beans, soybeans, corn, and any other commercially grown domestic grain;

§ 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.

Approved March 6, 1963.

CHAPTER 414

S. B. No. 316
(Kee, Thompson)

GRAIN WAREHOUSE LICENSE FEES

AN ACT

To amend and reenact section 60-02-07 of the North Dakota Century Code, relating to the fee schedule chargeable by the grain elevator division of the North Dakota public service commission.

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

§ 1. **Amendment.**) Section 60-02-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

60-02-07. Public Warehouse License—How Obtained—Fee.)

A license must be obtained through the commission to expire on the first day of August of each year for each public warehouse in operation in this state. No license so issued shall describe more than one public warehouse in operation in this state. No license so issued shall describe more than one public warehouse nor grant permission to operate any public warehouse other than the one described therein. The license fee which must accompany the application shall be twenty dollars for a warehouse of a bushel capacity of 150,000 or less, thirty dollars for a warehouse of a bushel capacity of 150,001 to and including 300,000, forty dollars for a warehouse of a bushel capacity of 300,001 to and including 400,000, fifty dollars for a warehouse of a bushel capacity of 400,001 to and including 500,000, and sixty dollars for a warehouse of a bushel capacity of 500,001 or more. The fees collected under this section shall be paid into the state treasury and credited to the general fund of the state. If a public warehouseman operates two or more warehouses in the same city, village or siding, in conjunction with each other and with the same working force, and where but one set of books and records is kept for all such warehouses, and cash slips, scale tickets, storage tickets, and checks of but one series are issued for grain stored therein, only one license shall be required for the operation of all such warehouses. Where two or more warehouses are operated under one license the license fee shall be based upon the combined bushel capacity of said warehouses.

Approved March 6, 1963.

CHAPTER 415

S. B. No. 313
(Kee, Thompson)

PUBLIC WAREHOUSE LICENSE FEES

AN ACT

To amend and reenact section 60-07-01 of the North Dakota Century Code, relating to the fee schedule chargeable by the North Dakota public service commission.

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

§ 1. **Amendment.**) Section 60-07-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

60-07-01. Licensing Storage Companies as Public Warehouses.) The public service commission may license any suitable person, firm, or corporation organized under the laws of the state, or authorized to do business within the state, to carry on the business of a public warehouse for the storage of any goods, wares, merchandise, or other general or special commodities, except grain in bulk. A license to engage in business of a public warehouseman may be obtained by filing an application with the public service commission showing:

- (1) The city and street address, or a description of the land, where each warehouse is located, together with the business name under which each such warehouse is operated; and
- (2) The kind of property stored in each warehouse.

Said application shall be accompanied by the bond required under section 60-07-02, and an annual fee of ten dollars for each warehouse, which fee shall be paid into the state treasury and credited to the general fund of the state. Such license shall be renewed annually and shall be issued for the calendar year.

Approved March 18, 1963.

CHAPTER 416

S. B. No. 73

(Brooks, Sinner, Holand, Morgan, Thompson)

DEPUTY WEIGHMASTERS

AN ACT

To create and enact section 60-09-06 and to amend and reenact section 60-09-05 of the North Dakota Century Code, relating to deputy weighmasters.

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

§ 1. **Amendment.)** Section 60-09-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

60-09-05. Penalty for Wrongful Weighing or Issuing of a False Scale Ticket.) The wrongful weighing or the issuing of a false ticket by a weighmaster or deputy weighmaster shall be a misdemeanor punishable by imprisonment in the county jail for not more than thirty days or by a fine of not more than one hundred dollars or by both such fine and imprisonment.

§ 2.) Section 60-09-06 of the North Dakota Century Code is hereby created and enacted to read as follows:

60-09-06. Weighmaster May Appoint Deputy Weighmaster—Duties—Weighmaster Responsible for Negligence of Deputy.) A weighmaster, with the approval of the public service commission, shall have the authority to appoint any qualified person as a deputy weighmaster, to serve at the will of the weighmaster. He shall perform such duties as assigned by the weighmaster and such weighmaster shall be held responsible, under his bond, for all acts or omissions of the deputy weighmaster committed or omitted while in the course of his duties.

Approved March 9, 1963.

WATERS

CHAPTER 417

H. B. No. 540

(Mueller, Christensen (Ward), Winge, Breum, Wilkie)

MISCELLANEOUS WATER LAWS

AN ACT

To create and enact sections 61-01-25, 61-02-24.1, 61-02-75, and 61-04-27 of the North Dakota Century Code; to amend and reenact sections 61-01-02, 61-01-23, subsection 2 of section 61-02-02, sections 61-02-04, 61-02-12, subsections 1, 2, 6, and 7 of section 61-02-14, subsection 1 of section 61-02-23, sections 61-02-24, 61-02-28, 61-02-30, 61-02-31, 61-02-38, 61-02-46, 61-03-21, 61-04-02, 61-04-15, 61-14-03, 61-15-04, 61-15-08, 61-16-08, and 61-20-06 of the North Dakota Century Code, as amended, relating to the appropriation and beneficial use of water, the authority and duties of the state water conservation commission, state engineer, and state geologist in the regulation thereof, rights of entry, water permits, compensation of members of the water conservation commission, information filed by water users with state engineer, easements on state lands, drainage of meandered lakes, cooperation of state political subdivisions with the water conservation commission in conducting water surveys, and to provide for a penalty for the violation of the provisions of chapter 61-01; and to repeal sections 61-14-02, 61-14-04, and 61-15-07 of the North Dakota Century Code, relating to the riparian ownership of water, the status of water used for irrigation purposes, the value of land as affected by water and wildlife conservation projects, and the reversion of unused water rights to the public.

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

§ 1. **Amendment.**) Section 61-01-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-01-02. Right to Use Water—Basis—Waters Appropriated for Irrigation Purposes—Priority in Time.) Beneficial use shall be the basis, the measure, and the limit of the right to the use of water. All waters appropriated for irrigation purposes shall be appurtenant to specified lands owned by the person claiming the right to use the water, so long as the water is used beneficially thereon unless such rights to use water have been severed for other beneficial uses as provided by section 61-04-15. Priority in time shall give the better right.

§ 2. **Amendment.**) Section 61-01-23 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-01-23. Removal of Obstructions in Channel of Non-navigable Streams.) In order to remove obstructions, such as logs, fallen trees and brush from the channel or bed of a nonnavigable river or stream and thus prevent ice from gorging therein and to prevent flooding or pollution of such stream or river, the state water commission, any municipality, any board of county commissioners and any federal agency authorized to construct works for prevention of damage by floods or for abatement of stream pollution, may enter upon lands lying adjacent to such nonnavigable stream to remove, or cause to be removed from the bed, channel or banks of such stream obstructions which prevent or hinder the free flow of water or passage of ice therein. However, such entry upon adjacent lands shall be by the most accessible route and the entering agency shall be responsible to the landowner for any damage.

§ 3.) Section 61-01-25 of the North Dakota Century Code is hereby created and enacted to read as follows:

61-01-25. Penalty.) Any person violating any of the provisions of this chapter or any rule or regulation of the state engineer for which another penalty is not specifically provided is guilty of a misdemeanor and shall be punished for each offense by a fine of not more than five hundred dollars, or by imprisonment for not more than thirty days, or by both such fine and imprisonment.

§ 4. **Amendment.)** Subsection 2 of section 61-02-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. "Works" shall be deemed to include:
 - a. All property rights, easements, and franchises relating thereto and deemed necessary or convenient for their operation;
 - b. All water rights acquired and exercised by the commission in connection with such works;
 - c. All means of conserving and distributing water, including without limiting the generality of the foregoing two subdivisions, reservoirs, dams, diversion canals, distributing canals, channels, lateral ditches, pumping units, mains, pipelines, treatment plants, and waterwork systems; and
 - d. All works for the conservation, development, storage, treatment, distribution, and utilization of water including, without limiting the generality of the foregoing subdivisions, works for the purpose of irrigation, watering stock, supplying water for public,

domestic, industrial, and recreational use, fire protection, and the draining of lands injured or in danger of injury as a result of such water utilization;

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

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

§ 6. **Amendment.)** Section 61-02-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-02-12. Compensation and Expenses of Appointive Members of Commission.) Each appointive member of the commission shall receive as compensation for his services the sum of fifteen dollars per day for each day actually engaged in the performance of the duties of his office, including time of travel between his home and the place at which he performs such duties, together with actual traveling and maintenance expenses while away from his home in the performance of such duties.

§ 7. **Amendment.)** Subsections 1, 2, 6, and 7 of section 61-02-14 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

1. To investigate, plan, regulate, undertake, construct, establish, maintain, control, operate, and supervise all works, dams, and projects, public and private, which in its judgment may be necessary or advisable:
 - a. To control the low-water flow of streams in the state;

- b. To impound water for the improvement of municipal, industrial, and rural water supplies;
- c. To control and regulate flood flow in the streams of the state to minimize the damage of such flood waters;
- d. To conserve and develop the waters within the natural watershed areas of the state and, subject to vested rights, to divert the waters within a watershed area to another watershed area and the waters of any river, lake or stream into another river, lake or stream;
- e. To improve the channels of the streams for more efficient transportation of the available water in the streams;
- f. To provide sufficient water flow for the abatement of stream pollution;
- g. To develop, restore and stabilize the waters of the state for domestic, agricultural and municipal needs, irrigation, flood control, recreation, and wildlife conservation, by the construction and maintenance of dams, reservoirs and diversion canals;
- h. To promote the maintenance of existing drainage channels in agricultural lands and to construct any needed channels;
- i. To provide more satisfactory subsurface water supplies for the municipalities of the state;
- j. To finance the construction, establishment, operation, and maintenance of public and private works, dams, and irrigation projects, which in its judgment may be necessary and advisable;
- k. To provide for the storage, development, diversion, delivery, and distribution of water for the irrigation of agricultural land and supply water for municipal and industrial purposes;
- l. To provide for the drainage of lands injured by or susceptible of injury from excessive rainfall or from the utilization of irrigation water, and subject to the limitations prescribed by law, to aid and cooperate with the United States and any department, agency, or officer thereof, and with any county, township, drainage district or irrigation district of this state, or of other states, in the construction or improvement of such drains;
- m. To provide water for stock; and
- n. To provide water for the generation of electric power and for mining and manufacturing purposes;

2. To define, declare, and establish rules and regulations:
 - a. For the sale of waters and water rights to individuals, associations, corporations, municipalities, and other political subdivisions of the state, and for the delivery of water to users;
 - b. For the full and complete supervision, regulation, and control of the water supplies within the state; and
 - c. For the complete supervision and control of acts tending to pollute watercourses, for the protection of the health and safety of all the people of the state;
 - d. Establish rules and regulations governing and providing for financing by local participants to the maximum extent deemed practical and equitable in any water development project in which the state participates in cooperation with the United States or with political subdivisions or local entities.
6. To acquire, own and develop lands for irrigation and water conservation and to acquire, own and develop dam sites and reservoir sites and to acquire easements and rights-of-way for diversion and distributing systems;
7. To cooperate with the United States and any department, agency or officer thereof in the planning, establishment, operation, and maintenance of dams, reservoirs, diversion and distributing systems, for the utilization of the waters of the state for domestic, municipal and industrial needs, irrigation, flood control, water conservation, generation of electric power and for mining, agricultural and manufacturing purposes, and in this connection the state water conservation commission is hereby authorized, within the limitations prescribed by law, to acquire, convey, contribute or grant to the United States moneys, real and personal property, including land or easements for dams and reservoir sites and rights-of-way and easements for diversion and distribution systems or participate in the cost of any project.

§ 8. Amendment.) Subsection 1 of section 61-02-23 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. To institute, maintain, and prosecute to final determination in any of the courts of this or any other state, or in any of the federal courts, any and all actions, suits, and special proceedings that may be necessary:
 - a. To enable it to acquire, own, and develop lands for irrigation and water conservation, water distribution

and other necessary purposes. The commission may sell such lands upon such terms and conditions as it may prescribe, and may own and hold title to lands for dam sites, reservoir sites, water rights, easements, and rights-of-way for diversion and distributing systems, lateral ditches, and other means for the distribution of waters in this state, and for any other necessary purposes;

- b. To adjudicate all water rights upon any stream, watercourse, or source of water supply from which are derived the waters for such reservoir, diversion and distributing systems, lateral ditches, and other means of distribution;

§ 9. **Amendment.)** Section 61-02-24 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-02-24. Cooperation and Coordination with All Existing Agencies.) The commission may investigate, plan, cooperate, and make all contracts or compacts necessary or requisite:

1. With the United States and any department, agency, or officer thereof;
2. With the states of Minnesota, South Dakota, Montana, and Wyoming, and with any other state, and with any department or officer of any state; and
3. With the Dominion of Canada or any of its provinces, and with any agency, department, or officer of the Dominion or any of its provinces.

The powers granted by this section shall extend to all waters, whether considered as intrastate, interstate, or international. The commission is specially authorized and empowered to cooperate with the United States or any of its agencies concerned with investigating, planning, conserving, utilizing, developing, and handling water in any form for purposes of water conservation, flood control, prevention of water pollution, or soil reclamation, or with any other resources of the state, and concerned with the administration of the public works program of the state or any part thereof. The commission is authorized to act and to contract fully with the United States, or with any department, agency, or officer thereof, with full power of purchase, sale, or lease to carry out, develop, or administer any federal project within this state or partly within the state, and also to accept and to use any funds provided by the United States or any agency thereof for any such purposes.

§ 10.) Section 61-02-24.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

61-02-24.1. Cooperation and Participation of Political Subdivisions.) All political subdivisions, including but not limited to, counties, townships, cities, villages, park districts, and water management districts may separately or jointly with other political subdivisions, the state or federal departments or agencies, investigate, plan and do all things necessary for participating in or undertaking underground or surface water surveys, development, construction, reconstruction and maintenance of works, dams, and projects for the beneficial utilization and control of water resources.

§ 11. Amendment.) Section 61-02-28 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-02-28. Plans, Investigations, and Surveys Concerning Use of Waters—Special Powers of Commission.) The commission may make plans, investigations, and surveys concerning the use of any and all waters, either within or without this state, for purposes of establishing, maintaining, operating, controlling, and regulating systems of irrigation, municipal, industrial, recreational, and fish and wildlife works and projects in connection therewith within the state. The commission shall have all necessary powers of purchasing and selling, leasing and assigning, rights and interests in the use or in the appropriation of waters concerned with such systems of irrigation projects or works in connection therewith, and shall possess full authority and jurisdiction to exercise and assert actual possession over the corpus of all of such waters, and to secure control and regulation of the diversion thereof subject to rules and regulations and methods prescribed by the commission. This power and authority shall include full right to contract and agree with any person, association, agency, or entity concerning water rights possessed by such person, association, agency, or entity through which the commission may be given full authority and jurisdiction over such water and water rights. In connection therewith the commission may coordinate, subordinate, supplement, and act jointly or subordinately with the United States, and any agency or department thereof, covering or concerning any federal project affecting water use, works, or projects in connection therewith.

§ 12. Amendment.) Section 61-02-30 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-02-30. Commission Acquiring Water Rights and Administering Provisions of Chapter—Declaration of Intention.) In acquiring the rights and administering the terms of this chapter, the commission shall not be limited to the terms of

the statutes of this state relating to water rights heretofore enacted, but, in addition thereto, the commission may initiate a right to the waters of this state by executing a declaration in writing of the intention to store, divert, or control the unappropriated waters of a particular body, stream, basin, or source, designating and describing in general terms the waters claimed, means of appropriation, and location of proposed use, and shall cause said notice to be filed in the office of the state engineer, which right shall vest in such commission on the date of the filing of such declaration. The commission also shall file in the office of the state engineer copies of its plans and specifications involved in completing any project for the appropriation of water which it intends to construct. The state engineer, subject to the approval of the commission, may grant water rights to any person, association, firm, or corporation, or to any municipality or to any state or federal agency, department or political subdivision in the manner provided by law.

§ 13. **Amendment.)** Section 61-02-31 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-02-31. Priority of a Water Right Dates from When.) The priority of a water right shall date and continue from the time of the filing or recording provided for in section 61-02-30. Change in means or place of diversion or control shall not affect the right of priority, if others are not injured thereby.

§ 14. **Amendment.)** Section 61-02-38 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-02-38. Holder of Water Right on Natural Stream May Turn Control Over to Commission.) Any holder of a water right on a natural stream may agree with the commission that it shall have control of the diversion of waters due under such right. In such an event, the commission, through its officers and agents, may exercise the same authority over the waters due said appropriator and may cause them to be delivered to him in the same manner as in case of waters appropriated by the commission.

§ 15. **Amendment.)** Section 61-02-46 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-02-46. Commission May Issue Bonds for Acquiring Lands for Irrigation — Limitation — Principal and Interest — How Paid.) The commission, in order to participate with state agencies, political subdivisions or the federal government, may provide by resolution, at one time or from time to time,

for the issuance of state water commission revenue bonds not exceeding a total of three million dollars, for the purpose of paying the cost of any one or more of the works authorized by this chapter and for the purpose of acquiring lands and preparing and developing the same for irrigation. The principal and interest of such bonds shall be payable from the special fund provided for in this chapter for such payment.

§ 16.) Section 61-02-75 of the North Dakota Century Code is hereby created and enacted to read as follows:

61-02-75. Hearing Witnesses—Subpoena—Oath—Fees.) The state engineer, or any person designated by him, may administer oaths and issue subpoenas for the attendance of witnesses at any hearing necessitated by this title. He shall have access to, and may order the production of all books, accounts, papers, and property material to such hearings. Witnesses, other than those in the employ of the state, shall be entitled to the same fees as witnesses in civil cases in district courts in accordance with section 31-01-16. Such fees shall be paid by the state water commission.

§ 17. **Amendment.)** Section 61-03-21 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-03-21. State Engineer May Require Plan of Operation—Adequate Structure.) Every operator of a water storage reservoir in North Dakota having a capacity of more than one thousand acre-feet shall annually, between the first and fifteenth day of February, file with the state engineer an operating plan for such reservoir for the calendar year in which the same is filed. The operator of any such reservoir shall be required to cooperate with the state engineer to the end that all water releases shall be compatible with the best interests of the greatest number of downstream water users and affected landowners. In the event that the state engineer declares an emergency to exist in connection with the operation of any such reservoir, the operator thereof shall promptly submit to the state engineer a separate interim operating plan therefor in addition to the annual reservoir operating plan herein required. Such interim operating plan shall then be coordinated and integrated with the suggestions and plans of the state engineer to best serve the affected interests during such emergency. The state engineer may also require such operators to maintain adequate structures and to operate them in a manner that will prevent waste, promote the beneficial use of water and not endanger the general health and welfare of persons affected thereby. In the event such operator fails to maintain and operate adequate structures in the manner provided in this section, the state engineer shall set a place and

time for hearing and shall serve notice upon such operator to show cause at such time and place why his water permit should not be declared terminated and canceled. A copy of any order terminating or canceling such water right shall be filed in the office of the register of deeds in the county or counties where the land to which the right is appurtenant is located. An appeal may be taken from the decision of the state engineer in accordance with the provisions of chapter 28-32.

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

61-04-02. Application for Beneficial Use of Water Required.) The United States, any department or agency thereof and any person, association or corporation intending to acquire the right to the beneficial use of any waters, before commencing any construction for such purpose or before taking the same from any constructed works, shall make an application to the state engineer for a permit to appropriate.

§ 19. Amendment.) Section 61-04-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-04-15. Assignment of Permit or License to Appropriate Water—Regulations Governing.) Any permit or license to appropriate water may be assigned, but no such assignment shall be binding, except upon the parties thereto, unless filed for record in the office of the state engineer. The evidence of the right to use water from any works constructed by the United States, or its duly authorized agencies, in like manner shall be filed in the office of the state engineer, upon assignment. A right to appropriate water for irrigation purposes shall be assigned only upon approval by the state engineer of an application for such assignment. If such change can be made without detriment to existing rights, the water right shall be simultaneously severed and transferred from such land without losing priority of any right previously established. Before the approval of such application the applicant must give notice thereof by publication once a week for two weeks in a newspaper of general circulation in the county in which the tracts of land are located, in the form required by the state engineer. Upon receipt of the proof of publication, the state engineer shall render his decision thereon in writing, which shall be final unless some party interested in the same source of water supply shall within sixty days bring appropriate action in the district court of the county in which the land is located appealing such decision. The transfer of title to land

in any manner whatsoever shall carry with it all rights to the use of water appurtenant thereto for irrigation purposes unless such rights to use water have been severed as provided in this section.

§ 20.) Section 61-04-27 of the North Dakota Century Code is hereby created and enacted to read as follows:

61-04-27. Information Filed with State Engineer—Installation of Measuring Devices.) On or before the first day of February of each year all water users holding a water permit, including irrigation districts, federal agencies, and political subdivisions, shall file with the state engineer, on forms supplied by the state engineer, topographic, mapping, foundation test borings, design, water use and such other information as the state engineer shall require. The state engineer may also require any such water users to install measuring devices, which shall conform to the state engineer's specifications, at all points specified by the state engineer.

§ 21. **Amendment.)** Section 61-14-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-14-03. Amount of Water for Irrigation.) In the issuance of a permit to appropriate water for irrigation or in the adjudication of the rights to the use of water for such purpose, the amount allowed shall not be in excess of the rate of one cubic foot of water per second for each eighty acres, for a specified time in each year, or the equivalent thereof, delivered on the land. Provided, that the state engineer may allow a higher rate of diversion where the method of irrigation stipulated in the permit or the type of soil to which the water is to be applied so requires, but in such event, the total amount allowed shall not be in excess of two acre-feet per acre delivered to the land for any one irrigation season, and in no case more than can be used beneficially, except that during periods of sufficient water supply the state engineer, with the approval of the state water commission and in accordance with the method of irrigation being used, the type of soil to which the water is to be applied, and other criteria established by the state engineer, may increase the amount of water allowed to three acre-feet per acre, per irrigation season, for a specified period of time which in no event shall be of greater duration than the period of sufficient water supply.

§ 22. **Amendment.)** Section 61-15-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-15-04. Easements to United States of America for Water and Wildlife Conservation.) An easement may be granted to

the United States, its instrumentalities or agencies, over all lands now owned or hereafter acquired by the state of North Dakota for rights-of-way for ditches, dams, dikes, fills, spillways, or other structures now constructed or to be constructed for the purpose of water or wildlife conservation.

§ 23. **Amendment.)** Section 61-15-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-15-08. Drainage of Meandered Lake—Penalty.) Any person without written consent of the state engineer who shall drain or cause to be drained, or who shall attempt to drain 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 shall be punished by imprisonment in the county jail for not more than ninety days, or by a fine of not more than five hundred dollars, or by both such fine and imprisonment.

§ 24. **Amendment.)** Section 61-16-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-16-08. Eligibility for Appointment to Board—Term of Office—Filling Vacancies—Compensation of Commissioners.) When a water management district has been created any resident freeholder in the district shall be eligible for appointment to the board of commissioners thereof. The terms of office of commissioners appointed to the first district board shall be determined by lot and shall be as herein provided. If such district board shall consist of three commissioners, one commissioner shall hold office for a term of two years, one shall serve for a term of three years, and one shall serve for a term of five years. When a district board consists of five commissioners, two commissioners shall hold office for the term of two years, one for three years, one for four years and one commissioner a term of five years. And when a board shall consist of seven commissioners, two commissioners shall hold office for two years, two for three years, two for four years and one for five years. When the term of office of a district commissioner has expired, his successor shall hold office for five years. The term of office of a commissioner shall commence on the date of his appointment. In case the office of any district commissioner shall become vacant, the commissioner appointed to fill the vacancy shall serve the unexpired term of the member of the board whose office became vacant. Members of the board of commissioners shall receive the same per diem as members of a board of county commissioners and shall be reimbursed for expenses incurred

in the performance of their duties on a like basis. The term of office of any member of such board of commissioners shall be deemed to have commenced on the date of his appointment to such board.

§ 25. **Amendment.)** Section 61-20-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-20-06. Duties of State Geologist.) The state geologist shall advise the citizens of the state as to the practicability of measures affecting the underground waters of this state. The state geologist shall:

1. Counsel and consult with the owner and assist him to work out the most desirable control and use of his well;
2. Select at least three representative flowing wells in each county having that number, and as many more as he may deem advisable;
3. Cause the record of their flows and pressures to be taken, from time to time, to learn as much as possible of the decline, fluctuations, and permanence of the artesian supply;
4. Plan and conduct such other investigations as he may find advisable to ascertain the best method of prolonging the utility of the same;
5. Keep a record of the location, size, depth, flow, size of flow, character of water, construction, and history of all artesian wells of the state, and keep it on file for public reference;
6. Secure the enforcement of all laws pertaining to artesian and phreatic waters of the state;
7. Publish from time to time, as he may deem advantageous, bulletins containing information concerning the artesian wells and phreatic waters of the state.

The state geologist, the state engineer, and the chairman of the board of county commissioners of any county in which an artesian well is located may make such additional reasonable rules and regulations governing such well as a majority shall determine.

§ 26. **Repeal.)** Sections 61-14-02, 61-14-04, and 61-15-07 of the North Dakota Century Code are hereby repealed.

Approved March 9, 1963.

CHAPTER 418

H. B. No. 539

(Mueller, Christensen (Ward), Winge, Breum)
(Wilkie, Davis (Dickey), Tweten)

(From LRC Study)

COMMISSION APPROVAL OF DAMS

AN ACT

To amend and reenact section 61-02-20 of the North Dakota Century Code, relating to the necessary approval of the state water conservation commission before constructing certain size dams and the inspection of such dams by the commission.

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

§ 1. **Amendment.**) Section 61-02-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-02-20. Approval of Commission Necessary Before Constructing Certain Size Dams—Inspection During Construction.) No dam capable of impounding more than twelve and one-half acre-feet of water, shall be constructed in this state, either in a watercourse or elsewhere, without the prior written approval of the commission. Before granting such approval, the commission may require the person or organization proposing to construct such dam to file plans and specifications satisfactory to its chief engineer. The commission may inspect such work during construction and may require any changes necessary to insure its safety and the safety of life and property.

Approved March 14, 1963.

CHAPTER 419

S. B. No. 32

(Kee, Trenbeath, Morgan, Saumur)
(From LRC Study)

WATER RIGHTS

AN ACT

To create and enact sections 61-04-23, 61-04-24, 61-04-25, and 61-04-26 of the North Dakota Century Code, relating to the acquisition of water permits necessary to the use of water under a municipal water right and the acquisition, cancellation, and recording of orders of cancellation of water rights; to amend and reenact sections 61-01-01.1 and 61-04-22 of the North Dakota Century Code, relating to priority of water rights and definitions thereof and the filing of prescriptive water rights, and to repeal sections 47-01-13, 61-04-18, 61-04-19, 61-04-20, and 61-04-21 of the North Dakota Century Code, relating to the ownership of water and the methods of acquiring such ownership.

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

§ 1. **Amendment.)** Section 61-01-01.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-01-01.1. Priority of Water Rights—Definitions.) In all cases where the use of water for different purposes conflict such uses shall conform to the following order of priority:

1. Domestic use.
2. Livestock use.
3. Irrigation and industry.

As between appropriators for the same use, priority in time shall give the better right. For purposes of this section:

- (1) "Domestic use" shall mean the use of water by an individual, or by a family unit, or household, for personal needs and for household purposes, including, but not limited to heating, drinking, washing, sanitary and culinary uses; irrigation of land not exceeding one acre in area for noncommercial gardens, orchards, lawns, trees or shrubbery; and for household pets and domestic animals kept for household sustenance whether the water is supplied by the individual, a municipal government or by a privately-owned public utility or other agency.
- (2) "Livestock use" shall mean the use of water for drinking purposes by herds, flocks or bands of domestic animals.

A water permit shall not be required of a landowner or his lessee to appropriate water for domestic and livestock uses.

§ 2. **Amendment.)** Section 61-04-22 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-04-22. Prescriptive Water Right.) Any person, firm, corporation or municipality which used or attempted to appropriate water from any watercourse, stream, body of water or from an underground source for mining, irrigating, manufacturing or other beneficial use over a period of twenty years prior to the effective date of this Act, shall be deemed to have acquired a right to the use of such water without having filed or prosecuted an application to acquire a right to the beneficial use of such waters if such user shall, within two years from the effective date of this Act, file with the state engineer an application for an appropriation permit in the form required by the rules and regulations of the state engineer, and substantiated by such affidavits and other supporting information as the state engineer may require. If the state engineer finds that the application and supporting documents substantiate the claim he shall approve such application, which shall thereupon become a permit to appropriate water with a priority date relating back to the date when water in the quantity stated in the application was first appropriated. In the event the prescriptive user shall fail to file with the state engineer an application for an appropriation permit within two years from the effective date of this Act such prescriptive water right shall be declared abandoned and forfeited. The decision of the state engineer in rejecting an application made under the provisions of this section may be appealed to the district court in the manner prescribed by section 61-04-07. Within sixty days after the effective date of this Act the state engineer shall cause to be published in all official county newspapers within the state notice of the deadline of filing for an appropriation permit by prescriptive users. Any such prescriptive water right acquired under this section shall be subject to forfeiture for nonuse as prescribed by sections 61-04-23 through 61-04-25.

§ 3.) Section 61-04-23 of the North Dakota Century Code is hereby created and enacted to read as follows:

61-04-23. Forfeiture of Water Rights—Inspection of Works.) All appropriations of water must be for a beneficial or useful purpose, and when the appropriator or his successor in interest ceases to use it for such purpose for three successive years, unless such failure or cessation of use shall have been due to the unavailability of water, a justifiable inability to complete the works, or other good and sufficient cause, the right

ceases. The state engineer shall, as often as necessary, examine the condition of all works constructed or partially constructed within the state and compile information concerning the condition of every water appropriation, and all ditches and other works constructed or partially constructed thereunder.

§ 4.) Section 61-04-24 of the North Dakota Century Code is hereby created and enacted to read as follows:

61-04-24. Forfeiture of Water Rights — Notice — Contents.)

If it shall appear that any water appropriation or portion thereof, whether issued prior or subsequent to the effective date of this Act, has not been used for a useful or beneficial purpose, or having been so used at one time has ceased to be used for such purpose for more than three successive years, unless such failure or cessation of use shall have been due to the unavailability of water, a justifiable inability to complete the works, or other good and sufficient cause, the state engineer shall set a place and time for a hearing. Any owner of a water permit using water from a common source of supply, any applicant therefor or any interested party may request the state engineer to conduct such a hearing, the purpose of which shall be the cancellation of any unused water rights to such common source of supply. Any decision of the state engineer in denying a request for such a hearing may be appealed to the district court in the manner prescribed by section 61-04-07. Prior to the hearings the state engineer shall serve notice upon the owners of such water appropriation or works and upon the owners of land benefited by such appropriation or works to show cause by such time and at such place why the water appropriation or a portion thereof should not be declared forfeited and canceled.

In addition to the time and place of hearing, such notice shall contain:

1. A description of the water appropriation;
2. The permit number upon the records of the state engineer;
3. The date of priority;
4. The point of diversion;
5. A description of the lands benefited by such appropriation as indicated on the application for a water permit on file in the office of the state engineer; and shall call upon the owners of such appropriation or works, the owners of land benefited by such appropriation or works, and other interested parties whose right to use water may be affected by a cancellation of the appropriation to show cause why such appropriation, or a portion thereof, should not be canceled.

The notice shall be served personally or sent by registered or certified mail at least thirty days before the date of hearing to those owning or controlling the appropriation or works and to the owners of land benefited by such appropriation as indicated on the application for a water permit on file in the office of the state engineer, or works as they appear from the records of the county treasurer or the register of deeds. In addition, such notice shall be published in a newspaper of general circulation in the county in which the point of diversion is located for two consecutive weeks prior to the date of hearing.

§ 5.) Section 61-04-25 of the North Dakota Century Code is hereby created and enacted to read as follows:

61-04-25. Forfeiture of Water Rights — Hearing — Appeal.)

At such hearing the verified report of the state engineer or engineers of the state water commission shall be prima facie evidence for the forfeiture and cancellation of such water appropriation or portion thereof. If no one appears at the hearing, such water appropriation or portion thereof shall be declared forfeited and canceled. If interested parties shall appear and contest the cancellation, the state engineer shall hear the evidence and if it appears that such water has not been put to a beneficial use or, having been so used at one time, has ceased to be used for such purpose for more than three successive years, unless such failure or cessation of use shall have been due to the unavailability of water, a justifiable inability to complete the works, or other good and sufficient cause, the same, or a portion thereof, shall be declared forfeited and canceled. An appeal may be taken from the decision of the state engineer in accordance with the provisions of chapter 28-32.

§ 6.) Section 61-04-26 of the North Dakota Century Code is hereby created and enacted to read as follows:

61-04-26. Register of Deeds to Record Order Canceling Water Right.) A copy of any order declaring any water right forfeited, canceled or abandoned shall be filed by the state engineer in the office of the register of deeds in the county or counties where the land to which the affected water right is appurtenant is located and shall be listed in the index of the property affected as provided in section 11-18-07.

§ 7. **Repeal.)** Sections 47-01-13, 61-04-18, 61-04-19, 61-04-20, and 61-04-21 of the North Dakota Century Code are hereby repealed.

Approved March 9, 1963.

CHAPTER 420

H. B. No. 536

(Mueller, Christensen (Ward), Winge, Breum, Wilkie)
(Davis (Dickey), Tweten)
(From LRC Study)

IRRIGATION DISTRICTS

AN ACT

To amend and reenact subsection 1 of section 61-05-01, sections 61-06-10, 61-06-12, 61-06-21, 61-06-22, 61-07-19, and 61-08-31 of the North Dakota Century Code, relating to irrigation districts.

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

§ 1. Amendment.) Subsection 1 of section 61-05-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. "Elector" shall mean any landowner owning not less than five acres of land whose land will be or is subject to assessments for construction or other costs, within a proposed or existing irrigation district, and who is a resident of this state. As herein used the term "owner" shall mean an owner in fee simple and shall also include:
 - a. An entryman of government land;
 - b. A purchaser of land under contract;
 - c. A guardian, executor, administrator, or trustee;
 - d. A corporation organized and existing under the laws of this state; and
 - e. The United States of America and the state of North Dakota;

§ 2. Amendment.) Section 61-06-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-06-10. Notice of Election After District Is Organized—Contents—Form—Failure to Give.) Not less than fifteen days before any election is held in an irrigation district under this chapter, subsequent to the election for the organization of the district, the secretary of the board of directors shall cause to be posted in at least three public places in each division of the district, a notice of election specifying when the polls will be open, when the polls will be closed, and the polling place or places. The board of directors also may direct that such notice be published in a newspaper of general circulation in the district not less than fifteen days before the date of

the regular election. Such notice shall be in substantially the following form:

“NOTICE hereby is given that on the.....day of....., 19....., an election will be held at..... (here designate the polling place) for the purpose of electing.....members of the board of directors and for the purpose of voting upon such questions as shall be submitted by the directors of the district. Polls will be opened at one o'clock p.m. and will be closed at five o'clock p.m. of that day.”

§ 3. **Amendment.)** Section 61-06-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-06-12. Candidates at Election—Filing Names.) Any person desiring to be a candidate at an irrigation district election shall file his name with the secretary of the board not less than ten days before such election. The secretary shall contact each candidate for the purpose of verifying his willingness to be a candidate at such election.

§ 4. **Amendment.)** Section 61-06-21 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-06-21. Meetings of Board—Regular and Special—Quorum—Records of Board—Publication of Proceedings.) The board shall hold regular meetings in its office or usual place of meeting on the first Tuesday of January, March, July, and November in each year at two o'clock p.m. of that day, and may by regulation or bylaw authorized by section 61-07-03 fix dates for such additional regular meetings as it shall deem needed. The board also may hold such special meetings as may be required for the transaction of the district's business. Special meetings shall be called by the secretary upon the order of the chairman of the board or upon the request in writing of two members. Such order must be entered of record on the minutes of the meeting and notice of such special meeting shall be delivered or mailed to each member of the board at least five days prior to the date of such special meeting. A special meeting of the board may be called at any time by the chairman without notice and the meeting thus called shall be legal and valid if all members of the board of directors are present. A majority of the members of the board shall constitute a quorum for the transaction of business, but upon all questions requiring a vote there shall be a concurrence of at least a majority of the board. All records of the board must be open to the inspection of any elector during business hours. The board may publish in one news-

paper of general circulation in the district a brief statement of the proceedings of each regular or special meeting if such publication can be made at an expense not exceeding one-third of the legal rate for advertising notices.

§ 5. **Amendment.**) Section 61-06-22 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-06-22. Directors and Officers—Salary, Mileage, and Expenses.) Each director shall receive compensation, mileage and actual and necessary expenses when attending meetings or while engaged in official business under order of the board not to exceed the compensation per day, mileage and expenses paid to a county commissioner. The salary of the secretary, assessor, and treasurer shall be determined by the board of directors.

§ 6. **Amendment.**) Section 61-07-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-07-19. Petition for Specific Orders or Changes in Canals—Methods.) Upon the filing of a petition in the office of the board of any irrigation district, signed by electors who own a majority of the total number of acres subject to assessment for construction or other costs, requesting that rules and regulations be adopted by the board permitting and providing for any of the following specific orders or changes in the method of operating its canal, such board immediately shall provide for the adoption and enforcement of the same:

1. That a measuring device of a type approved by the state engineer be placed in or near the headgate of any main diverting gate of the main canal, in order that a continuous record shall be kept by such district of the amount of water received into the canal for the use of the lands in such district; and
2. That a measuring device of a type approved by the state engineer be placed in the headgates of all main laterals and distributing laterals within the district from and by which water is diverted to tracts or units of twenty acres, or more, for the purpose of determining at all times the amount of water going to or being received upon any and all such tracts of land, and that it be made the duty of the superintendent of the canal to keep a separate and correct record of the amount of water delivered through each of such headgates at all times, and to file the same in the office of the board for public inspection.

§ 7. **Amendment.)** Section 61-08-31 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-08-31. County Treasurer to Make Report to Board Monthly.) The county treasurer shall report in writing to the district on the second Monday in each month the amount of money belonging to the district in the county treasury, the amount of receipts for the month preceding, and the amount of the moneys paid out and assessments against each tract or parcel of land within the district which were paid in the preceding month. Such report shall be verified and filed with the secretary of the board.

Approved March 6, 1963.

CHAPTER 421

H. B. No. 535

(Mueller, Christensen (Ward), Winge, Breum, Wilkie)
(Davis (Dickey), Tweten)

(From LRC Study)

WATER MANAGEMENT DISTRICTS

AN ACT

To create and enact sections 61-16-19.1, 61-16-26.1, 61-16-28.1, 61-16-46, 61-16-47, 61-16-48, 61-21-43.1, 61-21-65 and 61-21-66, and to amend and reenact section 61-16-01, subsection 11 of section 61-16-11, sections 61-16-12, 61-16-28, 61-16-42, subsection 4 of section 61-21-01, sections 61-21-04, 61-21-19, 61-21-24, subsections 1 and 2 of section 61-21-39, sections 61-21-45, and 61-21-56 of the North Dakota Century Code, relating to the organization, operation, consolidation, expansion and dissolution of drainage and water conservation and flood control districts, and to repeal section 61-16-41 and chapters 61-22 and 61-25 of the North Dakota Century Code, relating to township drainage projects and reclamation districts.

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

§ 1. **Amendment.)** Section 61-16-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-16-01. Definitions.) In this chapter, unless the context or subject matter otherwise provides:

1. "District" shall mean a water management district provided for in and under this chapter; wherever the term "water conservation and flood control district" appears, it shall mean "water management district";

2. "Commission" shall mean the state water conservation commission;
3. "Board of commissioners" shall mean the board of commissioners of a water management district provided for in this chapter;
4. The term "project", as used in this chapter, shall mean, and include, any undertaking for water conservation, flood control, watershed improvement and drainage of surface waters, including incidental features of any such undertaking.

§ 2. **Amendment.**) Subsection 11 of section 61-16-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11. To have all of the powers conferred by statutes upon a board of county drain commissioners provided that when the board of commissioners shall undertake the construction of any drainage project, the provisions of sections 61-21-10 through 61-21-18 relating to the petition, hearing, voting rights, and appeal shall govern;

§ 3. **Amendment.**) Section 61-16-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-16-12. District Budget—Tax Levy—Financing by Special Assessment.) When a water conservation and flood control district has been created and the board of commissioners thereof has been organized, the board shall estimate the expenses of the district from the date of its establishment until the end of the ensuing fiscal year and before July first in each year thereafter shall estimate district expenses for the fiscal year ensuing. Estimates of district expenses may include costs of rights-of-way, easements or other interest in property deemed necessary for the construction, operation and maintenance of any water conservation or flood control projects therein. Upon completion and adoption of a budget covering necessary expenses, the board of commissioners shall send a copy of such budget or apportionment thereof to the county auditor of each county in the district. If a district is situated in more than one county, the estimates shall be apportioned to counties affected. Such county auditor shall transmit the same to the board of county commissioners of his county. The board of county commissioners of each county in which the district is situated shall by resolution levy, authorize and direct their county auditor to extend and spread upon the tax roll of his county a tax of not to exceed three mills on each dollar of taxable valuation in the district or part of district situated in the county in the same manner, and with the same effect,

as general property taxes are extended and spread. Funds produced each year by such tax levy shall be available until expended, and if such tax levy in any year will not produce sufficient revenue to cover district expenses, a fund sufficient to pay the same may be accumulated. The acquisition of rights-of-way, easements, and the construction, operation and maintenance of a project in a district may, in the discretion of the board of commissioners, be financed in whole or in part by special assessments against property benefited by such project or the board may provide for the payment of such expenses from revenues realized in part from tax collections and in part from such special assessments.

If the project is one involving the maintenance of a drain, and it is desired to finance such project in whole or in part by means of special assessments, the levy in any year for such maintenance shall not exceed fifty cents per acre on any agricultural lands benefited by the drain. Agricultural lands which carried the highest assessment when the drain was originally established, or received the most benefits under a reassessment of benefits, may be assessed the maximum amount of fifty cents per acre. The assessment of other agricultural lands in the district shall be based upon the proportion that the assessment of benefits at the time of construction or at the time of any reassessment of benefits bears to the assessment of the benefits of the agricultural land assessed the full fifty cents per acre. Nonagricultural property shall be assessed such sum in any one year as the ratio of the benefits under the original assessments or any reassessment bears to the assessment of agricultural lands bearing the highest assessment. In case the maximum levy of fifty cents per acre for any year will not produce an amount sufficient to cover the cost of cleaning out and repairing such drain, the board of commissioners may accumulate a fund in an amount not exceeding the sum produced by such maximum permissible levy for two years. In the event the water conservation and flood control district is dissolved all unexpended assessments collected for the maintenance of the drain shall be returned to the owners of the assessed property by the board of commissioners on a pro rata basis in proportion with the amount originally assessed.

§ 4.) Section 61-16-19.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

61-16-19.1. Contracts for Construction or Maintenance of Project.) If the cost of construction or maintenance of a project does not exceed three thousand dollars, such work may be done on a day work basis or a contract may be let without being advertised. In cases where the cost of such con-

struction or maintenance exceeds three thousand dollars, the lowest and best bid shall be accepted. The board of commissioners shall give at least ten days' notice of the time and place where contract will be let. Such notice shall be published at least once in a newspaper of general circulation in a county in which the work is to be carried on and shall be mailed to any prospective bidders known to the board of commissioners.

Any person receiving a contract for construction or maintenance of a project shall give a performance bond in an amount set by the board of commissioners conditioned upon the proper performance of the contract within the time specified by such contract. The board shall reserve the right to reject any or all bids and may postpone the letting of contracts from time to time or to such other time and place as the board may publicly announce. Any contracts not let at the original contract letting may be let by the board at a later time after notice and in accordance with the provisions of this section.

§ 5.) Section 61-16-26.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

61-16-26.1. Reassessment of Benefits.) The board of commissioners may at any time, or upon petition of any affected landowner after a project has been in existence for at least one year shall hold a hearing for the purpose of determining the benefits of such project to each tract of land affected. At least ten days' notice of such hearing shall be given by publication in a newspaper having general circulation in the county and by mailing notice thereof by ordinary mail to each owner of land affected by the project as determined by the records of the register of deeds or county treasurer. The provisions of this chapter governing the original determination of benefits and assessment of costs shall apply to any reassessment of benefits carried out under this section. The board shall not be forced to make such reassessment more than once every ten years, nor shall any assessment or balance thereof supporting a project fund be reduced or impaired by reassessment or otherwise so long as bonds payable out of such fund remain unpaid and moneys are not available in such fund to pay all such bonds in full, with interest. Costs of maintenance shall be prorated in accordance with any plan for reassessment of benefits that has been adopted.

§ 6. **Amendment.)** Section 61-16-28 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-16-28. Certification of Assessments to County Auditor.) When a district board of commissioners has by resolution

levied, or caused to be levied, special assessments to cover the cost of constructing a water conservation or flood control project, the board shall determine the rate of interest unpaid special assessments shall bear, which rate shall not exceed seven percent per annum and shall not be less than the warrant rate. Interest on unpaid special assessments shall commence on the date the assessments are finally confirmed by the board. Special assessments may be certified and made payable in equal annual installments, the last of which shall be due and payable not more than thirty years after date of the warrants to be paid. The secretary of the district shall certify to the county auditor of the county in which the district is situated, or if the district embraces lands situated in more than one county, to the county auditor of each county in which district lands subject to such special assessments are situated, the total amount levied against such lands in his county and the proportion or percentage of such amount assessed against each piece, parcel, lot or tract of land. The secretary of the district shall also file with the county auditor of each county in which district lands lie a statement showing the cost of the project, the part thereof, if any, which will be paid out of general taxes and the part to be financed by special assessments. Funds needed to pay the cost of maintaining a water conservation or flood control project may be raised in the same manner as funds were raised to meet construction costs. If the project was financed in whole or in part through the use of special assessments the board of commissioners shall prorate the costs of maintaining projects in the same proportion as were the original costs of construction or, in the event a reassessment of benefits has been adopted, the costs shall be prorated in accordance with the reassessment of benefits as authorized by section 61-16-26.1.

§ 7.) Section 61-16-28.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

61-16-28.1. Removal of Obstructions to Drain — Notice and Hearing—Appeal—Injunction.) If the board shall determine that an obstruction to a drain has been caused by the negligent act or omission of a landowner or his tenant, the board shall notify such landowner by registered or certified mail at his post office of record. A copy of such notice shall also be sent to the tenant, if any. Such notice shall specify the nature and extent of the obstruction, the opinion of the board as to its cause, and shall state that if such obstruction is not removed within such period as the board shall determine, but not less than thirty days, the board shall procure removal of said obstruction and assess the cost thereof, or such portion as the board shall determine, against the property of the landowner responsible. The notice shall also state that the affected land-

owner may, within fifteen days of the date the notice is mailed, demand in writing a hearing upon the matter. Upon receipt of such demand the board shall set a hearing date within fifteen days from the date the demand is received. In the event of an emergency the board may immediately apply to a court of proper jurisdiction for an injunction prohibiting such a landowner or his tenant from maintaining such an obstruction. Any assessments levied under the provisions of this section shall be collected in the same manner as other assessments authorized by this chapter. If, in the opinion of the board, more than one landowner or tenant has been responsible, the costs may be assessed on a pro rata basis in accordance with the proportionate responsibility of the landowners. Any landowner aggrieved by action of the board under the provisions of this section may appeal the decision of the board to the district court of the county in which the land is located in accordance with the procedure provided for by sections 61-16-36 through 61-16-39. A hearing as provided for in this section shall not be a prerequisite to such appeal.

§ 8. **Amendment.**) Section 61-16-42 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-16-42. How District May Be Dissolved or Boundaries Altered.) 1. If the board of commissioners of a water management district shall file with the state water conservation commission its petition requesting that the district be dissolved, or its boundaries altered by the exclusion of present territory or the inclusion of additional territory, together with a certified copy of the board's resolution authorizing the signing of such petition, or if the commission is presented with such petition signed by more than fifty percent of the freeholders in a district, the commission shall fix a time and place for a public hearing on the petition. At least ten days prior to the date of the hearing, notice thereof shall be published in a newspaper of general circulation in the district. Any interested person may appear at such hearing and show cause why the petition should or should not be granted, and any interested person may, before such hearing is held, file with the commission his reasons in writing why the district should or should not be dissolved.

2. If, after the hearing the commission shall find that the reasons for establishing the district no longer exist, or that the boundaries of the district should be altered by excluding therefrom or adding thereto the territory described in the petition, the commission shall make and issue its order granting the petition subject to such conditions as the commission

may impose. An appeal from such order of the commission may be taken to the district court of the county in which the district or a part thereof lies in the manner provided in this chapter. Members of the board of commissioners and officers and employees of the district shall continue to act until the property of the district has been disposed of and district obligations settled and paid. None of the provisions of this chapter shall be construed to limit or impair obligations of the district nor the rights of owners thereof. If a district has undertaken and agreed to operate and maintain flood control facilities or works constructed by, or with the aid of, the federal government, such district shall not be dissolved unless consented to in writing by the United States or its appropriate agency or department.

3. After the state water conservation commission issues an order permitting dissolution of a water management district, the board of commissioners thereof shall cause to be published in a newspaper of general circulation in the district a notice to creditors, except holders of district special assessment warrants, requiring any person having a claim against the district to file such claim with the secretary thereof within six months after the first publication of such notice. Such notice shall be published once each week for three consecutive weeks. The secretary of the district shall mail a copy of such notice to each creditor, except holders of district special assessment warrants. After such notice has been given as herein provided, a copy thereof together with an affidavit of publication and an affidavit of mailing shall be filed in the office of the state water conservation commission. No district shall be dissolved until its obligations, including improvement warrants, have been settled and paid, and until the property of the district has been disposed of.

4. When the property to be disposed of is estimated by the board of commissioners to be of less value than one hundred dollars it may be sold at private sale. When the property to be disposed of is estimated at a greater value than one hundred dollars it shall be sold at public sale in the county where it is located after notice of sale has been published at least once in a newspaper of general circulation in such county. The sale shall be held not less than three nor more than six days after publication of notice of sale has been completed. If the district comprises an entire county, any balance remaining in the treasury of the district shall be paid into the general fund of the county; and if the district includes more than one county, any balance in the district's treasury shall be paid into the general fund of each county in the ratio or proportion that the assessed valuation of property therein bears to the assessed valuation of property in the dis-

trict. If the district comprises one or more counties, and one or more townships, cities or villages not situated in any such county or counties, any balance remaining in the treasury of the district shall be paid into the general fund of each such county and into the treasury of each township, city or village in the ratio or proportion that the assessed valuation in each county, township, city or village bears to the assessed valuation in the district. If the district includes one or more townships, cities or villages in a county, but does not include the entire county, any balance remaining in the district's treasury shall be paid to each township, city and/or village in the proportion that the assessed valuation thereof bears to the assessed valuation of the district. And if a part only of a township is embraced within the district, any balance in the district treasury shall be paid to the township in which a part of the district lies in the ratio or proportion that the assessed valuation of property in such part of the district bears to the assessed valuation of the district. When obligations of the district have been paid, and its property disposed of, the board of commissioners shall file with the state water conservation commission, and with the auditor of each county in which district territory is located, a report stating that the district has disposed of its property and that all obligations of the district have been paid. Thereupon the commission shall issue its order declaring the district dissolved. A certified copy of such order shall be filed with the secretary of state and with the auditor of each county in which territory in the district was located.

§ 9.) Section 61-16-46 of the North Dakota Century Code is hereby created and enacted to read as follows:

61-16-46. Drains Along and Across Public Roads and Railroads.) Drains may be laid along, within the limits of, or across any public road or highway, but not to the injury of such road. In instances where it shall be necessary to run a drain across a state or federal highway, the state highway department, when notified by the board of commissioners to do so, shall make necessary openings through such road or highway at its own expense, and shall build and keep in repair all such culverts or bridges. In instances where drains are laid along or within the limits of such roads or highways, such drains shall be maintained and kept open by and at the expense of the water management district concerned. A drain may be laid along any railroad when necessary, but not to the injury of such railroad, and when it shall be necessary to run a drain across such railroad, the railroad company, when notified by the board of commissioners to do so, shall make the necessary opening through such railroad, shall build the required bridges and culverts and keep them in repair.

§ 10.) Section 61-16-47 of the North Dakota Century Code is hereby created and enacted to read as follows:

61-16-47. Construction of Bridges and Culverts — Costs.)

The board of commissioners shall construct such bridges or culverts over or in connection with a drain as in its judgment may be necessary to furnish passage from one part to another of any private farm or tract of land intersected by such drain. The cost of construction thereof shall be charged as part of the cost of constructing such drain, and such bridge or passage-way shall be maintained under the authority of the board of commissioners, and the necessary expense thereof shall be deemed a part of the cost of maintenance. Whenever any bridge or culvert is to be constructed on a county or township highway system over and across or in connection with a drain, and the cost thereof shall exceed five hundred dollars, the cost of constructing such bridge or culvert shall be shared in the following manner: the state water commission may, if funds are available therefor, participate in the portion of the cost thereof that exceeds five hundred dollars in accordance with such rules and regulations as it may prescribe. The remaining cost thereof shall be borne on the basis of fifty percent by the county and fifty percent by the water management district which has created the need for such construction. If, however, moneys have not been made available to the commission for such participation, then and in that case, fifty percent of the cost of a bridge or culvert costing in excess of one hundred dollars shall be paid by the county and fifty percent shall be charged as cost of the drain to the water management district. Whenever any bridge or culvert costing one hundred dollars or less is needed on any such road the cost of such bridge or culvert shall be charged on the basis of fifty percent to the water management district and fifty percent to the township in which such bridge or culvert is located.

In the case of such bridge or culvert construction where there is federal financial participation, if there are costs exceeding the amount of such federal participation then the excess balance shall be borne by the water management district, or township, according to the provisions of this section, as the case may be.

§ 11.) Section 61-16-48 of the North Dakota Century Code is hereby created and enacted to read as follows:

61-16-48. Consolidation of Water Management Districts.)

Any two or more water management districts may be consolidated into a single district upon the filing with the state water commission of the petition provided for in section 61-16-02. Such petition shall be signed by a majority of the commissioners of each of the districts. In addition to the other

requirements imposed by this chapter, the petition shall contain a detailed plan for the disposition of property, assets, and liabilities of each of the districts, which plan shall be as equitable as practicable to every landowner within the districts and shall fully protect creditors and the holders of improvement warrants of the petitioning districts. The plan may provide for a continuance of assessments upon properties in the petitioning district or districts in order to retire outstanding obligations, or for the assumption of such outstanding obligations and the spreading of assessments for the payment thereof over properties in the newly created district. No petition shall be approved by the commission unless it fully meets the requirements of this section. Further procedure in the consolidation of districts shall be in accordance with the provisions of this chapter relating to the establishment of new districts. Upon the issuance of the order establishing the water management district, the commission shall issue its order dissolving the included districts. The prohibition against dissolving districts with outstanding obligations shall not apply to districts dissolved in accordance with this section.

§ 12. Amendment.) Subsection 4 of section 61-21-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. "Lateral drain" shall mean a drain constructed after the establishment of the original drain or drainage system and which flows into such original drain or drainage system from outside the limits of the original drain, provided that a determination by the board as to whether an existing or proposed drain is a lateral or a new drain within the meaning of this subsection shall be conclusive when entered upon the records of such board; and

§ 13. Amendment.) Section 61-21-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-21-04. State and County Officers Not Eligible as Drain Commissioners—Matters of Personal Interest to Drain Commissioners.) No person holding any state or county office, other than that of commissioner of a water management district, shall be eligible for the office of drain commissioner, and any drain commissioner accepting any state or county office, other than that of commissioner of a water management district, shall be deemed to have vacated the office of drain commissioner. No member of the board shall be qualified to act as such in any matter or proceeding before the board in which he is personally or financially interested and the board of county commissioners shall appoint an alternate

commissioner who shall act in the place of any disqualified or absent commissioner, but shall so act only upon matters in which a commissioner is disqualified or while a commissioner is actually absent from an entire meeting of the drainage board. The term of office of such alternate commissioner shall be three years.

§ 14. **Amendment.)** Section 61-21-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-21-19. Right-of-Way—How Acquired—Assessment of Damages—Issuance of Warrants.) The right-of-way for the construction, operation and maintenance of any proposed drain, if not conveyed to the county by the owner, may be acquired by eminent domain in such manner as may be prescribed by law. Where lands assessed for drainage benefits are not contiguous to such drain, access right-of-way thereto over the land of others may be acquired in the same manner. Such right-of-way, when acquired, shall be the property of the county. The board may issue warrants in a sum sufficient to pay the damages assessed for such right-of-way. Such warrants shall be drawn upon the proper county treasurer, and shall be payable out of any drain funds in the hands of the treasurer which have been collected for the construction of the drain for which such right-of-way is sought to be obtained. The board shall negotiate the warrants at not less than the par value thereof and shall pay into court for the benefit of the owners of the right-of-way the amount to which each is entitled according to the assessment of damages, paying the surplus, if any, to the county treasurer, who shall place the same to the credit of the proper drain fund.

§ 15. **Amendment.)** Section 61-21-24 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-21-24. Notice of Letting of Contracts.) After the recording of percentage assessments as provided in section 61-21-23, the board shall then give at least ten days' notice of the time and place where contracts will be let for the construction of the drain. Such notice shall be published at least once in a newspaper having general circulation in the county.

§ 16. **Amendment.)** Subsections 1 and 2 of section 61-21-39 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

61-21-39. Petition for a Lateral Drain—Bond of Petitioners—Penalty.) 1. All property owners whose property would be affected by a lateral drain may jointly petition the board for

the construction of such drain and shall deposit with the board a good and sufficient bond to be approved by the board, conditioned upon the petitioner or petitioners paying all costs of the proposed lateral drain. Whenever improvements of an original drain are made necessary by the construction of a lateral drain the costs of such improvements to the original drain shall be charged as part of the cost of construction of the lateral drain and assessed against the property benefited thereby and collected as other assessments are collected. In the event that the board shall determine that such improvements to the original drain are also beneficial to property served by the original drain, the board may assess such portion of the cost of the improvements as it shall determine to property benefited by the original drain. Unless the petitioners agree to construct the lateral drain, the board within ten days shall commence proceedings for the construction of such lateral drain according to the provisions of this chapter. No person shall dig or construct any lateral ditch or drain which will conduct the flow of water from any land or lands into any drain constructed under the provisions of this chapter, except the petitioners as provided in this section. In all instances involving the construction of a lateral drain, the board shall estimate and determine the proportionate share of the cost of the main or original drain which should be paid by such petitioners. The petitioners shall pay into the county treasury the amount so determined, and they shall then be allowed to connect such lateral ditches or drains with the original drain under the direction and superintendence of the board, but at their own cost and expense. The money paid into the county treasury shall be credited to the drainage fund of the specific drain involved.

2. Where one or more of the property owners to be benefited by the construction of a lateral drain or ditch petition the county drainage board for the construction of a lateral drain or ditch, the county drainage board shall then proceed in the same manner as is used for the establishment of a new drain and thereafter such lateral drain shall constitute a part of the original drain to which it is connected and the affected property shall be a part of such drainage district.

§ 17.) Section 61-21-43.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

61-21-43.1. Removal of Obstructions to Drain—Notice and Hearing—Appeal—Injunction.) If the board shall determine that an obstruction to a drain has been caused by the negligent act or omission of a landowner or his tenant, the board shall notify such landowner by registered or certified mail at his post office of record. A copy of such notice shall also be sent

to the tenant, if any. Such notice shall specify the nature and extent of the obstruction, the opinion of the board as to its cause, and shall state that if such obstruction is not removed within such period as the board shall determine, but not less than thirty days, the board shall procure removal of said obstruction and assess the cost thereof, or such portion as the board shall determine, against the property of the landowner responsible. The notice shall also state that the affected landowner may, within fifteen days of the date the notice is mailed, demand in writing a hearing upon the matter. Upon receipt of such demand the board shall set a hearing date within fifteen days from the date the demand is received. In the event of an emergency the board may, immediately upon learning of the existence of the obstruction, apply to a court of proper jurisdiction for an injunction prohibiting such a landowner or his tenant to maintain such an obstruction. Any assessments levied under the provisions of this section shall be collected in the same manner as other assessments authorized by this chapter. If, in the opinion of the board, more than one landowner or tenant has been responsible, the costs may be assessed on a pro rata basis in accordance with the proportionate responsibility of the landowners. Any landowner aggrieved by action of the board under the provisions of this section may appeal the decision of the board to the district court of the county in which the land is located in accordance with the procedure provided for by sections 61-16-36 through 61-16-39. A hearing as provided for in this section shall not be a prerequisite to such appeal.

§ 18. Amendment.) Section 61-21-45 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-21-45. Contracts for Work of Cleaning and Repairing Drains.) If the cost of any work of cleaning out or repairing any drain, or system of legal drains, if more than one cleaning or repair project is carried on under one contract, does not exceed two thousand dollars in any one year, such work may be done on a day work basis or a contract may be let without being advertised. In cases where the cost of such work exceeds two thousand dollars in any one year, a contract shall be let to the lowest and best bidder in the manner described in this chapter for the letting of bids for construction of drains. The board may reject any and all bids for the cleaning and repairing of drains and have such work performed by county equipment at the expense of the drainage district.

§ 19. Amendment.) Section 61-21-56 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-21-56. Dissolution of Drainage District—Return of Unexpended Assessments.) The owners of property subject to fifty-one percent or more of the liability for maintaining any drain as determined in section 61-21-16 may petition the board for the abandonment and dissolution of such drain. Upon receipt of such petition, the board shall call a public hearing on the petition and if they find the number of valid signatures to represent property liable to fifty-one percent or more of the cost of upkeep of such drain, as determined by section 61-21-16, and that such drainage district has no outstanding indebtedness, the board shall then declare such drain to be abandoned and such drainage district to be dissolved, shall record such declaration upon the minutes and publish the same in a newspaper having wide circulation in that county, and shall return all unexpended assessments collected for the maintenance of the drain to the owners of the assessed property on a pro rata basis in proportion with the amount originally assessed. In case the drainage district extends into two or more counties, the board upon receipt of the petition above referred to shall convene in joint session and call the public meeting above provided. When a drain has been abandoned and dissolved, it may then be re-established in whole or in part only in the same way as a new drain is established.

§ 20.) Section 61-21-65 of the North Dakota Century Code is hereby created and enacted to read as follows:

61-21-65. Consolidation of Drainage District or Districts Into Water Management Districts.) Upon resolution of the board of county commissioners or the board of drainage commissioners, or upon the filing with the board of county commissioners of a petition containing the signatures of landowners possessing at least fifteen percent of the voting rights in one or more drainage districts, computed in accordance with section 61-21-16, the board of county commissioners shall set a date for hearing upon the establishment or expansion of a water management district to include the property contained within such drainage district or districts. The board of county commissioners shall publish notice of the time, place, and purpose of such hearing once, in a newspaper of general circulation in the county not less than ten nor more than twenty days before the date set for hearing, and shall mail notice of such meeting by ordinary mail to each landowner within each drainage district affected at his address as shown by records in the office of the register of deeds or county treasurer. An affidavit of mailing shall be filed with the record of proceedings of the board of county commissioners. If, at the time and place set for hearing, a majority of affected landowners computed in accordance with section 61-21-16 shall

file written objections, further proceedings shall be discontinued. If such majority does not object, the board of county commissioners shall file with the state water commission the petition provided for in section 61-16-02 and all further proceedings shall thereafter be governed by chapter 61-16. Upon the establishment or expansion of a water management district to include one or more drainage districts the board of county commissioners shall, by resolution, dissolve the drainage districts and transfer all property of the dissolved districts to the water management district.

§ 21.) Section 61-21-66 of the North Dakota Century Code is hereby created and enacted to read as follows:

61-21-66. Dissolution Prohibited When Liabilities Outstanding—Disposition of Assets.) Notwithstanding the provisions of section 61-21-65, no drainage district shall be dissolved if such district has any outstanding warrants, bonds, or other obligations unless the order of the board of county commissioners dissolving such district shall provide for a continuance of assessments upon properties within the dissolved district for the payment of outstanding obligations, or an assumption of such obligations by the newly created district and the spreading of such assessments over properties within the newly created district. All sinking funds created for the payment of such obligations shall be continued in force by the new district until the liquidation of such obligations. Any funds in the treasury of the drainage district shall, upon dissolution under the provisions of section 61-21-65, be transferred to the treasury of the water management district. Such funds may be expended separately or jointly with other funds on projects or activities of the water management district which are of specific benefit to property in the dissolved drainage district from whence the funds were transferred or, in the discretion of the board of county commissioners, such funds may be prorated among the properties in the dissolved drainage district and credited to such property in proportion with the amount originally assessed as a credit against subsequent assessments by the water management district.

§ 22. **Repeal.)** Section 61-16-41 and chapters 61-22 and 61-25 of the North Dakota Century Code are hereby repealed.

Approved March 21, 1963.

CHAPTER 422

H. B. No. 538

(Mueller, Christensen (Ward), Winge, Breum, Wilkie)
(Davis (Dickey), Tweten)
(From LRC Study)

GARRISON CONSERVANCY DISTRICT MANAGEMENT

AN ACT

To amend and reenact section 61-24-06, subsection 9 of section 61-24-08, and section 61-24-09 of the North Dakota Century Code, relating to the election of officers, mill levy and establishment of reserve funds by the Garrison diversion conservancy district.

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

§ 1. **Amendment.)** Section 61-24-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-24-06. Meetings of the Board—Quorum—Board to Adopt Rules, Regulations and Bylaws.) The board of directors of the district shall adopt such rules and regulations and bylaws for the conduct of the business affairs of the district as they may deem necessary, including the time and place of regular meetings of the board. They shall elect from their number a chairman and vice chairman. They shall also elect a secretary and a treasurer, which offices may be held by the same person, and either or both offices may be held by someone not a member of the board. Special meetings may be called by the secretary on order of the chairman of the board or upon the written request of the majority of the qualified members of the board. Notice of a special meeting shall be mailed to each member of the board at least six days before such meetings, provided, that a special meeting may be held at any time when all members of the board are present or consent thereto in writing. A majority of the members of the board of directors shall constitute a quorum for the transaction of business, but any number may adjourn the meeting for want of a quorum.

§ 2. **Amendment.)** Subsection 9 of section 61-24-08 of the North Dakota Century Code Supplement is hereby amended and reenacted to read as follows:

9. In 1961 and each year thereafter to levy a tax of not to exceed one mill annually on each dollar of taxable valuation in the district, for the payment of the expenses of the district, including, but not limited to, per diem, mileage and other expenses of directors,

technical, administrative, clerical, operating and other expenses of the district office, and for the cumulation of a continuing fund through such levy for the performance of obligations entered into with the United States of America in connection with the construction, operation and maintenance of works of the said Garrison diversion unit of the Missouri River basin project. All moneys collected pursuant to such levy shall be deposited in the Bank of North Dakota to the credit of the district and shall be disbursed only as herein provided. The board may invest any funds on hand, not needed for immediate disbursement or which are held in reserve for future payments, in bonds of the United States, bonds and mortgages or other securities the payment of which is guaranteed by the United States or an instrumentality or agency thereof, bonds or certificates of indebtedness of the state of North Dakota or any of its political subdivisions. The amount which may be levied in any one year for operating the district prior to authorization by Congress of the Garrison diversion project shall not exceed ten percent of the maximum permissible;

§ 3. Amendment.) Section 61-24-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-24-09. District Budget—Determination of Amount To Be Levied—Adoption of Levy—Limitation.) In July of each year the board of directors shall estimate and itemize all the expenses and obligations of the district, including, but not limited to, expenses of directors, expenses of operating the office, debt service and retirement, and obligations and liabilities to the United States for which provision must be made. The board of directors may include in such budget funds deemed necessary to create reserve funds to meet future payments under district contracts. Upon the completion and adoption of such budget, the board of directors shall make a tax levy in an amount sufficient to meet such budget. Such levy shall be in the form of a resolution, adopted by a majority vote of the members of the board of directors of the district. Such resolution shall levy in mills, but not exceeding one mill, sufficient to meet all the expenses, obligations and liabilities of the district as provided in the budget.

Approved March 9, 1963.

CHAPTER 423

H. B. No. 537

(Mueller, Christensen (Ward), Winge, Breum, Wilkie)
(Davis (Dickey), Tweten)
(From LRC Study)

GARRISON CONSERVANCY DISTRICT, WITHDRAWAL

AN ACT

To amend and reenact section 61-24-16 of the North Dakota Century Code, relating to the exclusion of counties from the Garrison conservancy district.

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

§ 1. **Amendment.)** Section 61-24-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-24-16. County May Be Excluded from Conservancy District if Not Benefited.) 1. Any county in the conservancy district not benefited or not to be benefited, in whole or in part, by the establishment of the Garrison diversion unit of the Missouri Basin project as authorized by Act of Congress, approved December 22, 1944 (58 Stat. 887) and Acts amendatory thereof or supplementary thereto may be excluded from the district as provided herein. The board of county commissioners of any such county may by resolution direct the county auditor and the chairman of the board to file with the board of directors of the conservancy district a petition, for and on behalf of the county, requesting the board of directors of the district to exclude such county therefrom. A certified copy of the resolution of the county board shall accompany and be filed with such petition. The petition and resolution shall state specific reasons why such county will not be benefited by the establishment and development of the Garrison diversion unit.

2. Within sixty days from the date of filing said resolution and petition for exclusion from the district the district board shall meet to consider such petition. It may grant such petition or it may fix a time and place for a hearing thereon. If a hearing be set, the secretary of the board shall cause notice of the filing of such petition for exclusion, and of the time and place for a hearing, to be published once each week for two consecutive weeks in a newspaper of general circulation printed in the district. The hearing mentioned in such notice shall be held not less than ten nor more than twenty days after the last publication of such notice. The notice shall state

that any person, corporation, municipality and county in the district may appear or be represented at the hearing and show cause why the petition should or should not be granted. The board shall hear the petition at the time and place mentioned in the notice.

3. If after the hearing on the petition the district board of directors shall determine that the county requesting to be excluded from the district will not be benefited the district board shall by resolution grant the petition and shall direct the chairman and secretary to execute the order of the board excluding such county from the conservancy district. If, however, the district board shall decide that such county will be benefited it shall deny the petition and direct the chairman and secretary to execute its order refusing to exclude such county from the district. A county excluded from the conservancy district shall not be liable for any obligations thereof incurred after exclusion but shall be liable for and shall pay to the district taxes levied before exclusion.

4. If any contract shall have been made with the United States or any agency thereof before such petition is filed, such petition shall not be granted unless consented thereto by the appropriate agency of the United States and if such agency gives its consent upon condition, such conditions shall be included in the order of exclusion and the county may be required to and in that event such county shall continue to pay any tax levies required to meet the obligations of any such contract.

Approved March 9, 1963.

WEIGHTS, MEASURES, AND GRADES

CHAPTER 424

H. B. No. 843

(Maragos, Hauf, Johnston, Solberg)

WEIGHTS AND MEASURES INSPECTION

AN ACT

To amend and reenact section 64-02-10 of the North Dakota Century Code, relating to the fee schedule chargeable by the department of weights and measures of the public service commission.

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

§ 1. **Amendment.**) Section 64-02-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

64-02-10. Fee Schedule for Inspection of Weighing and Measuring Devices.) The chief inspector or other employee of the department of weights and measures shall charge and collect fees in accordance with the following schedule:

For inspecting railroad and track scale of capacity of twenty tons and upwards	\$15.00
For inspecting vehicle scales and livestock scales to 40,000 pounds capacity and under	8.00
For inspecting vehicle scales and livestock scales 40,001 pounds capacity and over	14.00
For inspecting road construction truck scales	24.00
For inspecting dormant scales, less than eight thousand pounds capacity or hopper scales, each	6.00
For inspecting movable platform scales.....	1.50
For inspecting all counter and computing scales	1.50
For inspecting every patent balance, beam steel yard, or other instrument used for weighing other than the above enumerated, each	1.25
For inspecting any two bushel or one bushel measure50
For inspecting any other dry measure, each25
For inspecting any liquid measure or computing pump	3.25

For each inspection of any liquid measure or computing pump in addition to the regularly scheduled annual inspection, including inspections made for new equipment which replaces a rejected measuring device	1.25
For inspecting liquid measures of five gallons or less capacity, each50
For inspecting gasoline and fuel oil meters	8.00
For inspecting gasoline and fuel oil meters on common carrier pipelines, and any other meters used in loading railway cars, transports or other conveyances	25.00
For inspecting any tank under five hundred gallons	10.00
For inspecting propane meters	10.00
For inspecting any board of cloth measure, each25
For calibrating truck tanks of one thousand gallons capacity and under	10.00
Truck tanks between one thousand gallons and two thousand gallons	15.00
Truck tanks between two thousand gallons and three thousand gallons	20.00
Truck tanks between three thousand gallons and four thousand gallons	25.00
Truck tanks between four thousand gallons and five thousand gallons	30.00
Truck tanks between five thousand gallons and six thousand gallons	35.00
Truck tanks above six thousand gallons	40.00

Where a rejected weighing and measuring device has been reconditioned or replaced by new equipment, the same must be reinspected and a certificate issued before being put into use and except as otherwise provided above the fee charged for such reinspection and certification shall be the same as for the first inspection and certification. When the inspector or other employee of the department of weights and measures shall find any of the instruments or articles used in weighing or measuring to be wrongly adjusted or out of repair, it shall be his duty to see that such scale or measure is corrected, and if the inspector or other employee of the department of weights and measures corrects such scale or measure he shall collect six dollars per hour for the actual time consumed in making such corrections, and shall receive reasonable compensation for any material used in such corrections.

Whenever a special inspection of any measuring device is required, in addition to the regularly scheduled annual inspection made by the department, a charge of ten cents per mile will be made in addition to the regular inspection fee to cover the costs of the additional travel by the inspector occasioned by such special inspection. Where a special inspection has been requested and the person requesting such special inspection fails to appear at the arranged hour, or fails to have the scale or measure in readiness for inspection at the arranged hour, there shall be a charge of ten dollars an hour for the time interval between the arranged hour and the hour at which the inspection can be commenced.

Approved March 4, 1963.

WORKMEN'S COMPENSATION

CHAPTER 425

S. B. No. 62

(Saumur, Longmire, Lips, Reichert, Sanford)

WORKMEN'S COMPENSATION PREMIUMS

AN ACT

Amending and reenacting section 65-04-04 of the North Dakota Century Code Supplement, relating to the payment of premiums to the North Dakota workmen's compensation fund, and providing the due date thereof for municipal corporations be the end of the fiscal year of such municipal corporation.

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

§ 1. **Amendment.**) Section 65-04-04 of the North Dakota Century Code Supplement is hereby amended and reenacted to read as follows:

65-04-04. Employers Obligated to Pay Premiums—Determination of Premiums—Premium Receipts and Certificates To Be Mailed.) Each employer subject to the provisions of this title shall pay into the fund annually the amount or premiums determined and fixed by the bureau for the employment or occupation of such employer, which amount shall be determined by the classifications, rules, and rates made and published by the bureau and shall be based on a proportion of the annual expenditure of money by such employer for the service of persons subject to the provisions of this title; provided, however, that the computation of such premiums shall not be based upon any premium wages in excess of the basic hourly rate of pay or any annual remuneration, in whatever form, in excess of the sum of thirty-six hundred dollars paid to any employee by any employer. A receipt or certificate specifying that such payment has been made shall be mailed to such employer by the bureau immediately after such payment is made, and such receipt or certificate, attested by the seal of the bureau, shall be prima facie evidence of the payment of the premium. The bureau shall provide that premiums to be paid by school districts, townships, and all public corporations or agencies, except municipal corporations, fall due at the end of the fiscal year of such entity, and that premiums to be paid by all municipal corporations fall due at the end of the calendar year, and may make provisions so that premiums of other employers fall due on different or

specified dates and for the purpose of effectuating such due rates the bureau may carry new or current risks for a period of less than one year and not to exceed fifteen months, either by request of the employer or action of the bureau.

Approved March 14, 1963.

CHAPTER 426

S. B. No. 86

(Lips, Kautzmann, Mahoney, Robinson)

INVESTMENT OF WORKMEN'S COMPENSATION FUNDS

AN ACT

To amend and reenact section 65-04-31 of the North Dakota Century Code, relating to investment of moneys in the workmen's compensation fund.

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

§ 1. Amendment.) Section 65-04-31 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

***65-04-31. Investment of Fund Authorized—Continuing Appropriation—Penalty.)** The bureau, upon a resolution to that effect duly entered upon the minutes of the bureau, concurred in by a majority of the commissioners, and when duly authorized so to do by a resolution duly adopted by the industrial commission of the state of North Dakota, may invest excess moneys in the fund in bonds of the United States of America, bonds and mortgages or other securities the payment of which is guaranteed by the United States of America, bonds of the state of North Dakota or of any other state, revenue producing building bonds of North Dakota higher education institutions or junior colleges issued under the provisions of chapter 15-55, or in certificates of indebtedness of the state of North Dakota, or in bonds, certificates of indebtedness, or warrants of any political subdivision of the state of North Dakota which constitute the general or contingent general obligations of the issuing tax authority, and purchase such loans and purchase such mortgage investments dated after the effective date of this section as are insured by or guaranteed in any manner wholly or in part, or other investments that are fully guaranteed by the United States or any in-

***Note:** Section 65-04-31 was also amended by section 6, chapter 205, 1963 S.L.

strumentality thereof, or by this state or instrumentality thereof. Before any investment is made in any securities, however, the securities shall be approved by the attorney general as to the form and legality thereof. The state treasurer shall be the custodian of all such securities, and the bureau shall deliver any securities so purchased to the state treasurer as such custodian. This section shall constitute a continuing appropriation out of the fund of all moneys that may be required for the making of the investments authorized by this section. The bureau, or any commissioner or other officer thereof, who shall invest any moneys in the fund without first having obtained the authorization of the industrial commission as provided in this section shall be guilty of a misdemeanor.

Approved March 4, 1963.

CHAPTER 427

H. B. No. 662
(Maragos)

WORKMEN'S COMPENSATION BENEFITS

AN ACT

To amend and reenact sections 65-05-09, 65-05-11, 65-10-01, and 65-10-03 of the North Dakota Century Code, relating to the amount of workmen's compensation benefits and appeals from decisions of the workmen's compensation bureau.

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

§ 1. **Amendment.)** Section 65-05-09 of the North Dakota Century Code Supplement is hereby amended and reenacted to read as follows:

65-05-09. Total Disability—Weekly and Aggregate Compensation.) If the injury causes temporary or permanent total disability, the fund shall pay to the disabled employee during such disability a weekly compensation equal to eighty percent of his weekly wage, subject to the maximum and minimum limitations contained in section 65-05-11. In case of temporary or permanent total disability, there shall be paid to such disabled employee an additional sum of three dollars per week for each dependent child under the age of eighteen years, and for each child over eighteen years and incapable of self-support due to physical or mental disability and whose maintenance is the responsibility of the claimant. Dependency awards for the children may be made direct to either parent at the

discretion of the bureau. In no event shall the total weekly payment to the totally disabled employee exceed the sum of sixty dollars per week, and in no case shall the compensation and dependency award exceed the actual wage of the disabled employee except in those cases on which the minimum compensation award is applied.

§ 2. **Amendment.)** Section 65-05-11 of the North Dakota Century Code Supplement is hereby amended and reenacted to read as follows:

65-05-11. Maximum and Minimum Compensation Allowances—Total and Partial Disability.) The weekly compensation for total disability shall not be more than forty-five dollars, except where an allowance for dependents is made in compliance with section 65-05-09, nor less than fifteen dollars. The weekly compensation for temporary partial disability with partial allowance for dependents shall not be more than forty-five dollars. If the injured person, at the time of the injury, was a minor or was employed in a learner's capacity, and was not physically or mentally defective, the bureau from time to time shall determine the probable increase in weekly earning capacity of such person if such injury had not occurred, and shall base its award for compensation upon such probable weekly wage-earning capacity.

§ 3. **Amendment.)** Section 65-10-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

65-10-01. Appeal from Decision of Bureau.) If the final action of the bureau denies the right of the claimant to participate at all in the 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, or if the bureau allows the claimant to participate in the fund to a lesser degree than that claimed by the claimant, if such allowance is less than the maximum allowance provided by this title, the claimant may appeal to the district court of the county wherein the injury was inflicted. An employer may also appeal a decision of the bureau in any injury case in the manner prescribed in this section. An appeal involving injuries received under insurance provided under contracts with extraterritorial coverage shall be triable in the district court of Burleigh County. Any appeal under this section shall be taken in the manner provided in chapter 28-32. In such a proceeding the state's attorney of the county wherein the appeal is taken without additional compensation shall represent the bureau. The clerk of court of the county within

which the appeal is taken shall notify the state's attorney of the filing of such appeal.

§ 4. **Amendment.)** Section 65-10-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

65-10-03. Costs of Appeal Including Attorneys' Fees Fixed by Court.) The cost of the appeal, including a reasonable attorney's fee for the prevailing attorney, shall be fixed by the trial judge and taxed against the bureau provided, however, that in the event the appeal is taken from an award of the bureau, the trial judge shall not allow attorneys' fees in excess of twenty percent of the amount allowed on appeal over and above the award given by the bureau in its final action prior to appeal. Such attorney's fee shall cover and constitute the entire remuneration for the prevailing attorney for all services in connection with the appeal.

Approved March 18, 1963.

VETOED MEASURES

CHAPTER 1

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

BUDGET

Note: The following line items were vetoed by the Governor. For the remainder of Senate Bill No. 1, see chapter 1.

Subdivision 9.

Commissioner of Insurance

Investigation of unauthorized companies.....	\$ 2,500.00
Travel expense	6,000.00

Subdivision 12.

Department of Agriculture and Labor

Predatory animal and rodent control	101,500.00
---	------------

Subdivision 15.

State Land Commissioner

Salary—deputy	12,000.00
---------------------	-----------

Subdivision 42.

State Laboratories Department

Salary—director	18,000.00
-----------------------	-----------

Approved in part March 20, 1963.

Filed March 21, 1963.

Item Vetoes

March 20, 1963

The Honorable Ben Meier
Secretary of State
Bismarck, North Dakota

Dear Mr. Meier:

Senate Bill No. 1 appropriates money for the expenses of the executive, legislative and judicial departments of state government, and for all of the subdivisions thereof, and for public schools; specifying the amount and time for which such appropriations shall be available.

There is no question but that the Budget Board, the legislative appropriation committees and the Legislature have spent much time and effort to shape this budget to achieve economy in state government without adversely affecting state services. For the most part I am in agreement with their decisions. There are, however, some further economies which I believe can and should be made. Senate Bill No. 1 is therefore approved only in part, with disapproval and veto given by me to those lined items listed below with explanations.

On page 5 in the appropriation to the Commissioner of Insurance the amount of \$2500.00 for "Investigation of Unauthorized Companies" is hereby vetoed. This appropriation was apparently abused in the past biennium, and there need not be a specific appropriation for this activity. An investigation of unauthorized insurance companies can be done using funds allocated to other department activities.

On page 5 in the appropriation to the Commissioner of Insurance the amount of \$6000.00, "Travel Expense", is hereby vetoed. This department, with its divisions of State Fire Marshal, State Bonding Fund, State Hail Insurance, and Fire and Tornado Fund, has a total of \$101,000 appropriated for travel. I believe this sum, which amounts to \$202 for each working day in the biennium, is excessive. The Insurance Commissioner can justify his travel from the funds for travel allocated to the divisions of his department. My elimination of the \$6000.00 travel appropriation in the budget of the Commissioner of Insurance is not to be construed as an attempt to limit travel by him or the personnel of any specific division under his department.

On page 7 in the appropriation for the Commissioner of Agriculture and Labor I veto the line item of \$101,500.00 for predatory animal and rodent control. This item is to support a program of matching federal funds to control coyotes, foxes, rats, mice and other animals. I have been informed that the coyote problem in this state is now very small. Sheep raising has diminished in areas frequented historically by coyotes. The control of foxes statewide is not possible under this program. Rodent control on farms, grain elevators and in municipalities should be a local responsibility. Educational service is available from County Extension Agents and Public Health officers. Commercial exterminating companies are available to municipalities, grain elevator operators and individuals. Advances in effective poisons have made rodent control possible and safe for anyone interested in controlling rats and mice. Nearly all of the predatory animal and rodent control program could be done by private enterprise rather

than by a taxpayer-supported service operated by the State. I would anticipate that private enterprise will move in to fill any gap left by the abolition of this state program. This program is an example of a once-necessary government activity which has done a good job but is now becoming outmoded. This type of program should give way to the more demanding services of government.

On page 8 in the State Land Commissioner's budget I veto the item of \$12,000.000 for "Salary—Deputy". This should not be construed as a criticism of the office or the salary of the deputy. This officer can be paid from the \$137,750 clerkhire appropriation for the department. I regard the clerkhire appropriation as excessive and certainly able to absorb the salary of the deputy commissioner.

On page 16 in the budget for the State Laboratories Department I veto the item of \$18,000.00 for "Salary—Director". In so doing I am not critical of the office of director, or the officer now serving, or the salary. The director may continue to be paid the listed salary out of the \$406,850 clerkhire appropriation for this department. There is no question but that the number of inspectors now serving this department could be cut down. The extensive time that the inspectors of this department devote to political activity on state time gives ample margin to maintain the legitimate functions of the department with fewer employees.

Sincerely,

WILLIAM L. GUY

Governor

CHAPTER 428

S. B. No. 31

(Sorlie, Longmire, Wadeson, Miller)
(From LRC Study)

TRANSFER OF TRUCK REGULATORY DIVISION

AN ACT

Transferring the field enforcement functions of the weight control division of the state highway department, together with all field equipment and facilities used by the weight control division, to the state highway patrol, and to amend and reenact sections 24-01-13, 24-03-02, 39-03A-09, 39-04-40, and 39-12-07 of the North Dakota Century Code, relating to the authority of the state highway commissioner in regulating and controlling the weight of vehicles traveling upon the state highway system.

Veto

March 9, 1963

The Honorable Frank Wenstrom
President of the Senate
Bismarck, North Dakota

Dear Mr. Wenstrom:

I have carefully considered S.B. 31, which would transfer the enforcement functions of the Truck Regulatory Department from the Highway Department to the Highway Patrol. This is legislation recommended by the Legislative Research Committee and, as such, represents careful study and a sincere effort to improve the operation of our state government. However, S.B. 31 has some serious drawbacks, which cause me to withhold approval.

The Highway Commissioner is, under law, responsible for the "protection and control" of the roads in our state highway system. This bill leaves that responsibility with the Highway Commissioner, but takes his enforcement organization, the Truck Regulatory Department, away from him.

There are different levels of training and physical qualifications required of state personnel engaged in the various types of law enforcement such as is done by Game Wardens, the Highway Patrol, license inspectors, the Truck Regulatory people, and public health inspectors. The physical requirements of the Highway Patrol personnel are substantially higher than those necessary for the Truck Regulatory personnel. To require total training in Highway Patrol work

and Truck Regulatory work of all people in the Highway Patrol, as S.B. 31 would require, would add a massive and costly training program to the Highway Patrol. To give the option of pursuing Truck Regulatory work or Highway Patrol work to each individual Highway Patrolman on duty under this bill could result in a serious dilution of effectiveness in both duties. It is widely recognized that best enforcement of specific laws comes about when specific individuals are assigned to enforce specific and closely related laws.

North Dakota has millions of dollars invested in good highways. A concentrated effort must be maintained in regulating loaded trucks using our highways in order to control cost of maintenance. The Highway Commissioner is best equipped and is specifically charged with holding highway maintenance costs down through regulation of truck traffic. Past experience has proved that where loaded truck traffic enforcement was not the primary objective of the enforcement agency, loaded truck regulation suffered.

The financing of the Truck Regulatory activity should come from Highway Department funds. To divert Truck Regulatory responsibility from the Highway Department and still finance this activity from Highway Department funds would sever, in part, the Highway Commissioner's control of funds allotted by the Constitution to his department.

I have heard no complaints about the operation of the Truck Regulatory Department under our Highway Commissioner. We have an excellent Highway Patrol and an excellent Truck Regulatory Department under the present organizational structure. I believe it to be in the best interests of the people of North Dakota not to change that structure.

I therefore veto S.B. 31.

Sincerely,

WILLIAM L. GUY
Governor

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

§ 1. Transfer of Weight Control Division and Functions.)
All field enforcement functions of the weight control division of the state highway department are hereby transferred to the state highway patrol. It shall hereafter be the duty of the highway patrol to operate, maintain and staff all scale houses and portable scales, and to provide field enforcement for all

laws and regulations presently enforced by the weight control division. This Act shall not be construed as limiting the statutory power of the state highway commissioner to authorize and issue special permits to overweight, overwidth, and over-length vehicles.

§ 2. Transfer of Equipment—Relocation of Permanent Scales.) All equipment of the weight control division, including cars, station wagons, radios, portable scales, permanent scale facilities and houses, and any other equipment used by the weight control division in its field enforcement program shall be transferred to the state highway patrol. Hereafter any relocation of permanent scale facilities resulting from the relocation or reconstruction of highways on the state highway system shall be done by the highway department and the cost thereof shall be charged to the costs of the highway relocation or reconstruction project.

§ 3. Employment Preference—Waiver of Qualifications of Highway Patrolmen.) Insofar as possible the superintendent of the state highway patrol shall give preference to present employees of the weight control division of the state highway department for appointment as highway patrolmen if such employees substantially meet the qualifications normally required for appointment to the highway patrol. The superintendent shall waive age and physical qualifications of any employee of the weight control division for appointment as highway patrolman if the other qualifications of such employee substantially meet the regular requirements and standards for appointment as a highway patrolman. Any present employee of the weight control division of the state highway department who does not substantially meet the requirements for appointment to the highway patrol shall be given preference by the highway commissioner for employment in the highway department in a capacity for which he is qualified.

§ 4. Selection of Retirement Plan by Employees of Weight Control Division.) All present employees of the weight control division of the state highway department appointed highway patrolmen who are:

1. Forty years of age or older shall not qualify for the retirement system established for the state highway patrol but instead their salaries shall continue to be taxed and social security coverage extended as provided for by the Federal Social Security Act and agreement in the same manner as other state employees:
2. Thirty-nine years of age or younger shall upon appointment to the highway patrol elect to:

- a. Contribute to the retirement system established for the highway patrol; or
- b. Remain under the coverage of the Federal Social Security Act in the same manner as other state employees. Such election shall be final and may not thereafter be changed unless approved by the highway patrolmen's retirement board.

§ 5. Financing Weight Control Functions.) Funds appropriated to the highway patrol for the performance of functions and duties transferred from the weight control division of the state highway department to the state highway patrol shall be in such amount as the legislative assembly shall appropriate from the state highway fund.

§ 6. Amendment.) Section 24-01-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

24-01-13. Enforcement of Highway Laws—Vehicle Size and Weight Controlled.) The commissioner, with respect to highways under his jurisdiction, may:

1. Classify highways and establish limitations as to weight and load of vehicles thereon as provided under section 39-12-01;
2. Issue special written permits authorizing the operation of oversized or overweight vehicles as provided for under section 39-12-02;
3. Prohibit the operation, or may impose restrictions on vehicular use of highways during certain seasons of the year as provided for under section 39-12-03;
4. Issue permits authorizing the operation of tractors or traction engines with movable tracks as provided for under section 39-21-40.

§ 7. Amendment.) Section 24-03-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

24-03-02. Authority to Construct and Maintain State Highway System.) The commissioner shall have the authority, and shall be responsible for the construction, maintenance, protection and control of the highways which shall comprise the state highway system except so far as specific authority has been delegated by law to the highway patrol. The commissioner shall patrol and keep said system in good and safe condition for general public use.

§ 8. Amendment.) Section 39-03A-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-03A-09. Payments by Contributors.) Every member, except as otherwise provided by law, shall be required to contribute into the fund a sum equal to six percent of his monthly salary, but not to exceed eighteen dollars, which sum shall be deducted from his salary and credited to his account in the fund. Every member, who has been in the employ of the North Dakota highway patrol prior to July 1, 1949, shall have the option and he may elect to make payments to the date when he first entered the service of the North Dakota highway patrol. Such back payments shall not exceed three and one-half percent of the total salary which would have been earned by the contributor had he continued in the service of the patrol, and may be spread over a period of three years by having the regular payroll deduction of the contributor increased in an amount equal to the total of his back payments divided by thirty-six, which deduction increase shall be credited to such back payments owing and shall be continued until the full amount of such back payments shall have been completed. Any such deduction increase may be anticipated in part or in full by the contributor at any time and must be anticipated in full before a retirement or optional retirement allowance is granted, and, if not so anticipated and paid in full, then any retirement or optional retirement allowance to which the contributor would otherwise be entitled shall be reduced by an amount and for such time as will assure that the back payments will be returned to the fund in the same manner as if the deduction increase had been continued. Every contributor who shall elect to make such back payments shall receive full credit under this chapter for all contributions made into the fund and for all service credits to which he might thereby be entitled.

§ 9. Amendment.) Section 39-04-40 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-04-40. Officers to Enforce the Provisions of Chapter.) The highway patrol and all other road or police officers shall enforce the provisions of this chapter.

§ 10. Amendment.) Section 39-12-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-12-07. Peace Officers May Weigh Vehicle to Determine Load—Decreasing Gross Weight of Vehicle.) Every police

officer and member of the state highway patrol, having reason to believe that the weight of a vehicle and the load carried thereon is unlawful, may weigh such vehicle and load or have the same weighed either by means of portable or stationary scales, and for that purpose he may require the vehicle to be driven to the nearest scales. Such officer may require the driver of such vehicle immediately to unload such portion of the load as may be necessary to decrease the gross weight to the maximum allowed by the provisions of this chapter.

Disapproved March 9, 1963.

Filed March 18, 1963.

CHAPTER 429

S. B. No. 36

(Baeverstad, Becker, Luick, Reichert)

(From LRC Study)

WHOLESALEERS' PERMITS

AN ACT

To create and enact subsection 10 of section 57-39-01 and section 57-39-26 of the North Dakota Century Code, relating to wholesaler's permits, records, and reports on sales exempt from the retail sales tax.

Veto

March 21, 1963

The Honorable Ben Meier
Secretary of State
Bismarck, North Dakota

Dear Mr. Meier:

Senate Bill No. 36 would add to the auditing and collection problem of the State Tax Department by requiring the auditing and collection from all users rather than from a single wholesaler who also makes retail sales.

The bill also says the wholesaler, "in good faith", must obtain calendar year certificates from the retailer or purchaser. Establishing fraud under this terminology is almost legally impossible.

The bill creates a weakness in granting sufficient authority to the Tax Commissioner to collect the sales tax from those

who have purchased at wholesale and are the final user and consumer. Note the North Dakota Tax Department's critical appraisal of this legislation as appended.

Because of the problems arising from this legislation, which are greater than any benefits derived from it, I veto Senate Bill No. 36.

Sincerely yours,

WILLIAM L. GUY
Governor

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

§ 1.) Subsection 10 of section 57-39-01 of the North Dakota Century Code is hereby created and enacted to read as follows:

10. "Wholesaler" means any person who sells tangible goods, wares, or merchandise for processing or to a retailer for resale but shall not include the sale of agricultural products by a producer for processing.

§ 2.) Section 57-39-26 of the North Dakota Century Code is hereby created and enacted to read as follows:

57-39-26. Wholesaler's Permit—Reports—Penalty.) For the purpose of better enforcing the retail sales tax law, every wholesaler shall obtain from the tax commissioner a wholesaler's permit in such manner and upon such forms as the commissioner shall prescribe. The commissioner shall charge a fee of one dollar for each such permit issued. All books, papers, invoices, memoranda and other records relating to the business of the wholesaler shall be open to examination at any time by the tax commissioner or any of his duly authorized agents, and the tax commissioner shall have the same powers of subpoena with respect thereto and with respect to witnesses as is provided in section 57-39-19. When the holder of a wholesaler's or retailer's permit granted pursuant to chapter 57-39 who nevertheless is in the business of primarily selling tangible personal property for resale or for processing, sells such tangible property to a retailer holding a valid retailer's permit pursuant to chapter 57-39, such retailer or purchaser shall remit all sales or use taxes required to be collected under chapters 57-39 or 57-40, provided that such wholesale seller, in good faith, obtains a certificate from such retailer or purchaser covering the calendar year in which such sale or sales are made verifying that such retailer or purchaser has a valid retailer's permit, that the buyer's purchase or purchases from

the wholesale seller are for resale or for processing in the regular course of his business and that such retailer or buyer will collect and remit all sales tax and use taxes on the further transfer, sale, or use of said tangible property in accordance with law and that such retailer or buyer will be liable for penalties for failure to collect or remit such taxes.

Disapproved March 21, 1963.

Filed March 23, 1963.

CHAPTER 430

S. B. No. 82

(Brooks, Erickson, Sanford, Robinson, Trenbeath, Reichert)

TRUCK LENGTH LIMITATIONS

AN ACT

To amend and reenact subsection 4 and to create subsection 7 of section 39-12-04 of the North Dakota Century Code, relating to the length limitations on highway vehicles.

Veto

March 23, 1963

The Honorable Ben Meier
Secretary of State
Bismarck, North Dakota

Dear Mr. Meier:

Senate Bill 82 would permit a combination of vehicles consisting of truck tractor, semi-trailer, and trailer, including the load thereon, exceeding sixty feet in length but not exceeding sixty-five feet in length, to operate only on and over those highways in the state designated by the Highway Commissioner. Senate Bill 82 was once defeated in the House of Representatives in the session just concluded, but was reconsidered and passed with a very thin majority.

North Dakota has one of the highest budgets for highway construction and maintenance per capita of any state in the Union. We have been willing to tax ourselves at an extremely high level to obtain the excellent network of state highways which crisscross our state. A large proportion of this excellent state highway system was designed in years past without anticipation of the dramatic growth of the heavy truck freight industry.

We have witnessed in recent years the gradual increase in legal truck lengths and legal axle weights allowed the commercial trucking industry. In the interests of highway safety and highway maintenance, there must be a practical and economical limit to length and weight that can be allowed to operate over North Dakota state highways.

The erosion of truck weight and length limitations in one state causes pressure in adjoining states to comply, whether such compliance is in the best interest of that state or not. I note that the adjoining state of Minnesota still maintains a legal truck length of fifty feet, and so it cannot be said that North Dakota, with its present legal truck length limit of sixty feet, is an island obstructing the flow of interstate truck traffic.

Our commercial truck drivers have an enviable record for courtesy, safety and professional competence on the highways. However, commercial truck drivers guiding their vehicles of the present maximum legal length of sixty feet find themselves in an ever-increasing flow of traffic composed of non-commercial drivers of widely varying competence, safety and courtesy. To keep extending the length of commercial trucks can only add to the hazards brought about by, and to, the many automobile and truck drivers lacking the competence of the commercial truck driver.

The weakening of the North Dakota truck length laws by passage of Senate Bill 82 would be the opening wedge for increased weight limits. Our North Dakota highway system, other than the Interstate Highway, is not designed for the heavy truck loads that would be asked of future legislators to match the increased legal truck length.

To ask the Highway Commissioner under this law to designate highways over which sixty-five foot truck units could operate would only subject the Highway Commissioner to tremendous pressure from the trucking industry. The Interstate Highway is the only state highway built under specifications to permit increased truck length and weight without jeopardizing highway safety and maintenance. However, those sections of the Interstate Highway system which are not complete are definitely not designed to accommodate increased truck length and weight. Until the Interstate Highway system is completed, North Dakota will not have a continuous stretch of state highway which the Highway Commissioner could reasonably designate as a highway which could safely and economically accommodate increased truck lengths.

In the interest of a need for greater rather than less highway safety, and in the interest of protecting the high per capita investment that North Dakotans now have in their present highway system, I hereby veto S.B. 82.

Sincerely yours,

WILLIAM L. GUY
Governor

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

§ 1. **Amendment.)** Subsection 4 of section 39-12-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. A length when operated in combination, including the load thereon, shall not exceed a length of 60 feet, except as hereinafter provided.

§ 2.) Subsection 7 of section 39-12-04 of the North Dakota Century Code is hereby created and enacted to read as follows:

7. A combination of vehicles consisting of truck-tractor semitrailer and trailer, including the load thereon, exceeding 60 feet in length but not exceeding 65 feet in length may be operated only on and over those highways in the state designated by the highway commissioner.

Disapproved March 22, 1963.

Filed March 23, 1963.

CHAPTER 431

S. B. No. 97

(Reichert, Kamrath, Kisse, Roen)

PARK COMMISSIONERS' EMINENT DOMAIN, REPEAL

AN ACT

To repeal subsection 11 of section 11-28-05 and subsection 3 of section 11-28-16 of the North Dakota Century Code, relating to the exercise of the power of eminent domain by the board of park commissioners and the county board of joint park commissioners.

Veto

March 7, 1963

The Honorable Frank Wenstrom
President of the Senate
Bismarck, North Dakota

Dear Mr. Wenstrom:

Transmitted herewith without my approval is Senate Bill No. 97, an Act to repeal subsection 11 of section 11-28-05 of the North Dakota Century Code, relating to the exercise of the power of eminent domain by the board of park commissioners.

Chapter 11-28-05 of the North Dakota Century Code spells out the powers and duties of the board of county park commissioners. Subsection 11 of section 11-28-05 is a substantial power necessary in the full performance of those duties of a board of county park commissioners. To repeal the right of eminent domain now vested in a board of county park commissioners would relieve the public of its rights in the courts to expand the recreational facilities of our state in this and coming generations. The rights of the individual are protected by the courts in the exercise of the power of eminent domain. I have confidence in our courts.

The vitality of North Dakota's projected water resource development would be jeopardized with the loss of the power of eminent domain vested in the boards of county park commissioners. To repeal this section of law would be a denial of the ability of local government to determine its affairs. I think we should strive to strengthen local government. If we fail to strengthen local government, we leave a vacuum into which some higher level of government must move.

This era in which we live is providing greater free time for adults, and is increasing the need for juvenile recreation. Our needs today call for an expansion rather than a retardation of the establishment of our park systems.

I therefore veto Senate Bill No. 97.

Sincerely,
WILLIAM L. GUY
Governor

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

§ 1. **Repeal.**) Subsection 11 of section 11-28-05 and subsection 3 of section 11-28-16 of the North Dakota Century Code are hereby repealed.

Disapproved March 6, 1963.

Filed March 18, 1963.

CHAPTER 432

S. B. No. 99
(Lips)

DEFAMATION BY RADIO OR TELEVISION

AN ACT

To amend and reenact section 14-02-09 of the North Dakota Century Code to provide for the mitigation of damages in defamation suits against radio and television broadcasting stations and to provide for the admissibility in evidence the script or tape recording of such statement.

Veto

March 21, 1963

The Honorable Ben Meier
Secretary of State
Bismarck, North Dakota

Dear Mr. Meier:

Senate Bill No. 99 was originally drawn to give our radio and television stations the same rights regarding retraction and limitation of damages in a libel case as are now given to

newspapers in chapter 14-02 of the North Dakota Century Code. This legislation was sponsored by the North Dakota Broadcasters Association.

Somewhere along the line, this bill was apparently inadvertently amended to do just the opposite of what its sponsors wanted. The bill as now written creates a discrepancy between broadcasters' rights and limitations and those of other advertising and news media. I have received legal advice that this bill would open the door to frivolous and unjust lawsuits, and would require court interpretation of several of its provisions. The North Dakota Broadcasters Association has requested that this bill not become law. I concur, and believe that adequate legislation on this subject must be written in the next session.

I therefore veto Senate Bill No. 99.

Sincerely yours,

WILLIAM L. GUY

Governor

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

§ 1. **Amendment.**) Section 14-02-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

14-02-09. Defamation by Visual or Radio Broadcast—Limitation of Liability—Retraction.) 1. The owner, licensee or operator of a visual or sound radio broadcasting station or network of stations, and the agents or employees of any such owner, licensee or operator, shall not be liable for any damages for any defamatory statement published or uttered in or as a part of a visual or sound radio broadcast, by one other than such owner, licensee or operator, or agent or employee thereof.

2. Before any suit can be brought against a visual or sound radio broadcasting station or network of stations for any defamatory statement, other than a defamatory statement of or concerning a female, published or uttered by the owner, licensee, operator, agents or employees thereof as a part of a visual or sound radio broadcast, the party aggrieved, at least three days before filing his complaint, must serve notice on the owner, licensee or operator of such visual or sound radio broadcasting station or network of stations at his principal office of broadcasting, specifying the statement alleged to be false and defamatory. If on the trial it appears that the statement was published or uttered in good faith, and its falsity

was due to a misapprehension in regard to the facts, and a full and fair retraction of the erroneous statement in an equal number and at the same prime times to be made within three days after the mistake was brought to the attention of the owner, licensee or operator in as conspicuous a manner as the original statement, the plaintiff will be entitled to recover such damages as he or his family can show they have suffered from character assassination or he has sustained to his property, business, trade, profession, or occupation. If the defamatory statement is against a candidate for office, upon the written request of such candidate, the retraction must be immediately made editorially.

3. Every visual or sound radio broadcasting station shall retain in its files the script of any editorial statement published or uttered by the owner, licensee, operator, agents or employees thereof, for a period of one year following the publishing or uttering of such statement. Such script and any tape recording which may have been made of such statement shall be admissible in evidence as proof of the contents of such statement in any suit for damages for any defamatory statement published or uttered in or as a part of a visual or sound radio broadcast, by the owner, licensee, operator, agents or employees of the visual or sound radio broadcasting station or network of stations.

Disapproved March 21, 1963.

Filed March 23, 1963.

CHAPTER 433

S. B. No. 146

(Reichert, Ringsak, Sinner, Lips, Mutch)

VALUATION OF PUBLIC UTILITY PROPERTY

AN ACT

To amend and reenact section 49-06-02 of the North Dakota Century Code, and establish the standards for valuation of public utility property for rate making purposes.

Veto

March 8, 1963

The Honorable Frank Wenstrom
Lieutenant Governor of North Dakota
President of the Senate
Thirty-Eighth Legislative Assembly
Bismarck, North Dakota

Dear Mr. Wenstrom:

Senate Bill No. 146 amends section 49-06-02 of the North Dakota Century Code. This amendment, if approved, would make a significant change in public utility rate-making procedures followed by the North Dakota Public Service Commission.

Under our present law, a public utility is allowed a fair return on the money it honestly and prudently invests in North Dakota, less accrued depreciation. This amendment would force the North Dakota Public Service Commission to select a higher value than that of a public utility's actual money investment in North Dakota, less accrued depreciation. This higher value would be arrived at by selecting unnamed indexes and such other facts of an equally obscure nature as the commission might find reasonable.

It should be obvious that a given amount of net return would appear as a larger percentage of return to an actual money investment than the same net return would appear as a percentage of return to an inflated valuation. In rate-setting cases a public utility could more easily argue for increased rates without arousing public opposition if its rate of return could be made to appear comparatively low. This amendment would permit the appearance of lower rate of return to a public utility investment if such investment were given an inflated value in excess of actual money investment.

The proponents of this amendment would not have submitted it had we been in a deflationary trend. If this amendment were enacted into law and we entered a prolonged deflationary period, I am sure there would be a determined effort by public utilities to strike this proposed amendment in favor of the rate-making procedures now in effect.

There has been no abuse cited in our present rate-making procedure. The Federal Communications Commission does not permit inflated valuations in computing rate of return for public utilities. I believe this bill is not in the best interests of our North Dakota consuming public, nor is this bill necessary to maintain the sound continued expansion of our public utilities and the excellent services they are now performing.

I therefore veto Senate Bill No. 146.

Sincerely yours,
WILLIAM L. GUY
Governor

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

§ 1. Amendment.) Section 49-06-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

49-06-02. Value of Property for Rate Making Purposes—Determination.) The value of the property of a public utility, as determined by the public service commission for rate making purposes, shall be the money honestly and prudently invested therein by the utility less accrued depreciation adjusted to give due recognition to changes in general price and cost levels as indicated by appropriate indexes or such other facts as the commission shall find reasonable.

Disapproved March 8, 1963.

Filed March 18, 1963.

CHAPTER 434

S. B. No. 158

(Baker, George, Longmire)

LEGISLATORS' CONFLICT OF INTEREST, REPEAL

AN ACT

To repeal section 54-03-21 of the North Dakota Century Code prohibiting a member of the legislative assembly, his spouse, partnership, corporation, or association from performing services or providing materials for the state of North Dakota for a consideration in excess of ten thousand dollars in any calendar year.

Veto

March 6, 1963

The Honorable Frank Wenstrom
Lieutenant Governor of North Dakota
Bismarck, North Dakota

Dear Mr. Wenstrom:

I am sending herewith without my approval Senate Bill 158.

Senate Bill 158 repeals section 54-03-21 of the North Dakota Century Code, the so-called "anti-corruption law." This law was passed by the people as an initiated measure on June 29, 1954, by a vote of 75,362 to 61,780.

I realize that this law bars many fine people from serving in our legislature. However, the law does stand as a guiding principle that North Dakotans do want to keep their legislature as free as possible from self-centered interests. I believe the law could be amended to exclude subdivisions of the state from its provisions. It could also be amended and strengthened to eliminate the possibility of a serious conflict of interest in legislators who work for but do not necessarily own a share in a business contracting with the State.

In order that a cloud not fall over our determination that legislators are most responsive to the people when a conflict of interest does not exist, I veto Senate Bill 158.

Sincerely yours,
WILLIAM L. GUY
Governor

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

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

Disapproved March 6, 1963.

Filed March 18, 1963.

CHAPTER 435

S. B. No. 243
(Mutch)

CREDIT CARD PURCHASES BY STATE

AN ACT

To amend and reenact subsection 21 of section 54-44-04 of the North Dakota Century Code providing for the operation of a centralized purchasing service and to provide for credit card purchases by the department of accounts and purchases.

Veto

March 18, 1963

The Honorable Ben Meier
Secretary of State
Bismarck, North Dakota

Dear Mr. Meier:

In January of 1961, I implemented the Department of Accounts and Purchases. This department has many duties, but one of its major functions is to act as the central purchasing agency for state government. Central purchasing by this department has already made giant strides in cutting the cost of government, eliminating patronage and corruption, establishing quality control and opening up the availability of state contracts to all businesses on a competitive basis without regard to political patronage.

Some purchasing procedures instituted by the Department of Accounts and Purchases are less than one year old and are subject to change in the never-ending effort to improve this service in the best interest of the taxpayers of our state. The purchase at retail of gasoline for state vehicles is one area of purchasing which requires additional study. The retail purchasing of gasoline for state vehicles as now followed by the Department of Accounts and Purchases has shown a

dramatic saving to the taxpayers but does contain some false economies to be overcome.

The hostility of some state departments to centralized purchasing must be taken into account in projecting the possible effects of passage of Senate Bill No. 243. This law specifically forbids competitive bidding on items of fifteen dollars or less. This law would forbid the State from contracting on the basis of low bids for the purchase of all state vehicle gasoline at retail, thus losing hundreds of thousands of dollars to the state government. We are striving to operate state government under the same sound principles of economy that apply to any business. State government's first obligation is to all taxpayers.

The hostility of some state departments toward nonpatronage-oriented purchasing would cause these departments to immediately shun in every way possible contracts for purchases which would be in excess of fifteen dollars. Costly and uneconomical small lot purchasing would become the order of the day in many state departments.

I believe so strongly in the economy and fairness practiced by our Department of Accounts and Purchases that I cannot approve legislation which is designed to weaken that department's effectiveness or abolish the principle of competitive bidding.

Therefore, I veto Senate Bill No. 243.

Sincerely yours,

WILLIAM L. GUY

Governor

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

§ 1. Amendment.) Subsection 21 of section 54-44-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21. Shall be vested with the duties, powers, and responsibilities involved in the operation of a centralized purchasing service. This purchasing service shall include the purchase of all equipment, furniture, fixtures, printing, materials, supplies and other commodities for all state departments, institutions, offices, and agencies, excluding land, buildings, or space, or the rental thereof, and excepting emergency purchases that are impossible of execution by the department of accounts and pur-

chases within the required time, highly specialized equipment which can be better purchased by the department institution or office which is to utilize such equipment, and such specific items and minor purchases as the director may exempt. Purchases by all state departments, institutions, offices and agencies may be purchased by the use of a purchase credit card issued in the name of the state and department, institution, office or agency by the department of accounts and purchases on individual purchases of fifteen dollars or less. In no event shall individual purchases of fifteen dollars or less be subject to competitive bidding.

Disapproved March 18, 1963.

Filed March 18, 1963.

CHAPTER 436

S. B. No. 270
(Ringsak)

REFUSAL OF CHEMICAL TEST

AN ACT

To amend and reenact section 39-20-04 of the North Dakota Century Code, relating to the revocation of licenses, permits, or driving privileges upon refusal to submit to chemical testing.

Veto

March 23, 1963

The Honorable Ben Meier
Secretary of State
Bismarck, North Dakota

Dear Mr. Meier:

Senate Bill 270 amends section 39-20-04 of the North Dakota Century Code relating to revocation of the privilege of driving a motor vehicle upon refusal to submit to chemical testing in instances of suspicion of driving under the influence of alcohol. This bill provides that in any case where a vehicle operator has refused to submit to chemical testing but shall subsequently, within seven days after the date of arrest, enter a plea of guilty to the offense of driving while intoxicated, the provisions of this section relating to the revocation of license, permit, or operating privilege shall not apply.

This section of Senate Bill 270 would, in effect, cause any driver who refused to submit to chemical testing under our implied consent law to plead guilty. I do not believe this to be a reasonable alternative.

The last section of Senate Bill 270 provides that the court, at any time, may stay the provision of this section for so long as the court deems advisable. This provision would, for all practical purposes, do away with the implied consent law.

Observations of the actions of the various courts in North Dakota reveal that should Senate Bill 270 become law, there would be a wide difference in the manner in which individual courts would handle the problem of drunken driving. Some courts have a record of strict enforcement of drunken driving charges while other courts in our state have considerable weakness and vacillation regarding all or individual cases of those charged with drunken driving. I believe that the courts should uniformly administer the traffic laws throughout the state.

In the interests of highway safety and in curbing the rising accident toll caused by drunken driving, I veto Senate Bill 270.

Sincerely yours,

WILLIAM L. GUY

Governor

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

§ 1. **Amendment.)** Section 39-20-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-20-04. Revocation of Privilege to Drive Motor Vehicle Upon Refusal to Submit to Chemical Testing.) If a person under arrest for the offense of driving or being in actual physical control of a vehicle upon the public highways while under the influence of intoxicating liquor and refuses to submit to chemical testing, none shall be given, but the state highway commissioner, upon the receipt of a sworn report of the law enforcement officer that he had reasonable grounds to believe the arrested person had been driving or was in actual physical control of a motor vehicle upon the public highways while under the influence of intoxicating liquor, and that the person had refused to submit to the test or tests, shall revoke his license or permit to drive and any nonresident operating privilege for a period of three months; or if the

person is a resident without a license or a permit to operate a motor vehicle in this state the commissioner shall deny to the person the issuance of a license or permit for a period of three months after the date of the alleged violation, subject to review as hereinafter provided. In any case where an operator has refused to submit to chemical testing but shall subsequently, within seven days after the date of arrest, enter a plea of guilty to the offense of driving while intoxicated, the provisions of this section relating to the revocation of a license, permit, or operating privilege shall not apply. Provided that the court at any time may stay the provisions of this section for so long as the court deems advisable.

Disapproved March 22, 1963.

Filed March 23, 1963.

CHAPTER 437

S. B. No. 291
(Luick, Kee, Kjos)

BOND ISSUE ELECTIONS

AN ACT

To require a delay of sixty days between elections whenever a bond issue or excess levy has failed when submitted to a vote.

Veto

March 18, 1963

The Honorable Ben Meier
Secretary of State
Bismarck, North Dakota

Dear Mr. Meier:

Senate Bill No. 291 prevents the calling of an election for at least sixty days on a bond issue or excess levy question defeated in an election. I believe this to be a wise law regarding bond issues. However, in the case of an excess levy election an impossible situation would be created by this law.

School board members take office on July 1. They then set up their budget. Should an excess levy election be required, there would be only one opportunity to hold such an election before their budget was submitted on October 1 for determining the mill levy to be spread. For all practical purposes,

Senate Bill No. 291 would allow only one election each year on the question of an excess levy. This would be disastrous to many North Dakota schools.

I therefore veto Senate Bill No. 291.

Sincerely yours,

WILLIAM L. GUY
Governor

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

§ 1.) Whenever at any election a bond issue or excess levy has failed to receive the required approval of the electors, as provided in chapters 21-03, 57-16, or 57-17, the matter shall not again be submitted to a vote until a period of at least sixty days shall have expired.

Disapproved March 18, 1963.

Filed March 18, 1963.

CHAPTER 438

S. B. No. 300
(Becker, Kjos, Van Horn)

DUTIES OF RETIRED JUDGE

AN ACT

To amend and reenact section 27-17-03 of the North Dakota Century Code, to provide that a retired district judge may temporarily assume the duties of a district judge unable to perform his duties because of sickness or other unavoidable cause.

Veto

March 21, 1963

The Honorable Ben Meier
Secretary of State
Bismarck, North Dakota

Dear Mr. Meier:

Senate Bill No. 300 circumvents the time-honored power of the governor to make appointments to fill vacancies which may arise from the failure of a district judge to serve his district because of sickness, injury or other unavoidable cause. The

last line of the bill states that a retired judge appointed by the Supreme Court to temporarily fill a vacancy shall serve only until such time as the regular district judge is able to assume his duties or until such position is filled by election or appointment as provided by law. Obviously, this language would mean the end of appointments by the governor as provided by law.

There may have been a time in past administrations when this bill could have been favorably considered by a governor, but it was not presented then. There may be a future administration where a governor would look favorably on this bill. However, I do not, and therefore I veto Senate Bill No. 300.

Sincerely yours,

WILLIAM L. GUY

Governor

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

§ 1. Amendment.) Section 27-17-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-17-03. Duties of Retired Judges.) Upon the retirement of a judge of the supreme court or a judge of the district court, the supreme court may appoint him a commissioner of that court to aid and assist the court in the performance of such duties as may be assigned to him with his consent.

Any such retired judge shall also be eligible to serve as a referee in any civil case or other judicial proceeding when so designated by the court having power to appoint referees; he may also, when requested, serve as legal counsel in the office of the attorney general, in any executive department, commission or bureau of the state and for any committee of the legislative assembly.

The supreme court may appoint a retired district judge to temporarily assume the duties of any district judge unable to carry out his duties because of sickness, injury, or other unavoidable cause. Such retired judge shall perform the same duties in the same manner as the district judge he replaced and shall receive the same compensation and expenses as such judge, less the amount of his retirement compensation. The retired judge shall serve only until such time as the

regular district judge is able to assume his duties or until such position is filled by election or appointment as provided by law.

Disapproved March 21, 1963.

Filed March 23, 1963.

CHAPTER 439

S. B. No. 312

(Forkner, Baeverstad, Miller, Sorlie, Sanford, Kjos, Saumur)
(George, Lips, Strinden, Morgan, Baker, Becker, Mahoney)

INCOME TAX STATEMENTS OF STATE EMPLOYEES

AN ACT

To provide that any person who is required to approve warrants for, or to pay any compensation to any state employee shall require a statement from the tax commissioner that such officer or employee has filed and paid his state income tax prior to his receiving such compensation or, in the alternative, shall require a sworn statement from such employee that he was not required to file a return or that no state income tax is due.

Veto

March 21, 1963

The Honorable Ben Meier
Secretary of State
Bismarck, North Dakota

Dear Mr. Meier:

Senate Bill No. 312 sets out a cumbersome procedure for checking on each state employee's tax payments before any warrant to, or payment of compensation to, that employee be made. This is discriminatory and unjustified. State employees should have the same rights under our tax laws as do any citizens who work for their living.

The cost to state agencies in checking on their employees' tax payments far outweighs the tax delinquencies upon which recovery might be made.

I therefore veto Senate Bill No. 312.

Sincerely yours,

WILLIAM L. GUY

Governor

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

§ 1. Statement of State Employee That State Income Tax Has Been Paid Prior to Receiving Salary.) Any person who is required to issue warrants for, or to pay any salary, wages, or other compensation to any officer or employee of the state, or its political subdivisions or instrumentalities, shall require a statement from the tax commissioner that such officer or employee has filed an income tax return and paid any income tax due to the state or that such officer or employee has filed a tax return but no tax was due or, in the alternative, shall require from the state officer or employee under penalties of perjury a statement that he was not required to file an income tax return under North Dakota law and that no state income tax is due. Such statement shall be signed by all regular or permanent state officials or employees, or issued by the tax commissioner for such employees on or before November fifteenth of each year and such statements shall be considered as complying with the requirements of this Act for a period of one year after such date. All persons employed after November fifteenth of each year shall be subject to the provisions of this Act in the same manner as officers and employees who are employed on November fifteenth and all provisions of this Act shall be complied with in regard to such persons prior to the second payment of salary, wages, or other compensation to which they may be entitled.

Disapproved March 21, 1963.

Filed March 23, 1963.

CHAPTER 440

H. B. No. 530

(Fitch, Stockman, Davis (Mercer-Dunn-Oliver), Tough)
(From LRC Study)

HIGHWAY SPEED LIMITS

AN ACT

To create and enact sections 39-09-09 and 39-09-10; to amend and reenact sections 39-09-02, 39-09-03, and 39-09-07, subsection 18 of section 40-05-01, and subsection 14 of section 40-05-02 of the North Dakota Century Code, relating to speed limits upon the highways and streets of the state.

Veto

March 18, 1963

The Honorable Ben Meier
Secretary of State
Bismarck, North Dakota

Dear Mr. Meier:

House Bill No. 530 raises the speed limits on all state highways.

With the highway death toll climbing each year and with injury, tragedy and property destruction from highway accidents mounting annually, we need to ask ourselves, "Why?" Excessive speed is a contributing factor to the horrifying carnage on the highways.

I cannot see how we attack the problem of highway safety by raising speed limits on state highways. I therefore veto House Bill No. 530.

Sincerely yours,

WILLIAM L. GUY
Governor

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

§ 1. **Amendment.**) Section 39-09-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-09-02. Speed Limitations.) 1. Except when a special hazard exists that requires lower speed for compliance with section 39-09-01, the limits specified in this section or estab-

lished as hereinafter authorized shall be maximum lawful speeds, and no person shall drive a vehicle on a highway at a speed in excess of such maximum limits.

- a. Thirty miles per hour within the boundaries of any incorporated city or village;
- b. Seventy miles per hour during the daytime and sixty miles per hour during the nighttime on highways which are a part of the state highway system;
- c. Seventy-five miles per hour during the daytime and sixty-five miles per hour during the nighttime on controlled-access highways, commonly called interstate highways;
- d. Sixty miles per hour in other locations during daytime or nighttime.

“Daytime” means from a half hour before sunrise to a half hour after sunset. “Nighttime” means at any other hour.

The maximum speed limits set forth in this section may be altered as authorized in sections 39-09-03 and 39-09-07.

2. The driver of every vehicle shall, consistent with the requirements of section 39-09-01, drive at an appropriate reduced speed when approaching and crossing an intersection or railway grade crossing, when approaching and going around a curve, when approaching a hill crest, when traveling upon any narrow or winding roadway, and when special hazard exists with respect to pedestrians or other traffic or by reason of weather or highway conditions.

§ 2. **Amendment.**) Section 39-09-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-09-03. Local Authorities May Set Speed Limitations — Signs Posted.) 1. Whenever local authorities in their respective jurisdictions determine that the maximum speed permitted under this chapter is greater or less than is reasonable and safe under the conditions found to exist upon a highway, road or street, or part thereof, the local authorities may determine and declare a reasonable and safe maximum limit thereon.

2. Any altered limit established as hereinabove authorized shall be effective at all times or during hours of darkness or at other times as may be determined when appropriate signs giving notice thereof are erected upon such street or highway.

3. Any alteration of maximum limits on state highways or extensions thereof in a city or village by local authorities shall not be effective until such alteration has been approved by the commissioner.

4. Not more than six such alterations as hereinabove authorized shall be made per mile along a street or highway, except in the case of reduced limits at intersections, and the difference between adjacent limits shall not be more than ten miles per hour.

§ 3. **Amendment.)** Section 39-09-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-09-07. Speed Zones on State Highways.) Whenever the state highway commissioner and the superintendent of the highway patrol shall jointly determine upon the basis of an engineering and traffic investigation that any maximum speed hereinbefore set forth is greater or less than is reasonable or safe under the conditions found to exist upon any part of the state highway system, other than the interstate system, they may determine and declare a reasonable and safe maximum limit which, when appropriate signs giving notice thereof are erected, shall be effective at all times or during hours of daytime or nighttime or at such other times as may be determined at such part of the highway. The limits prescribed by subdivision c of subsection 1 of section 39-09-02 for interstate highways shall not be altered except at exit and access points.

§ 4.) Section 39-09-09 of the North Dakota Century Code is hereby created and enacted to read as follows:

39-09-09. Minimum Speed Regulation.) No person shall drive a motor vehicle at such a slow speed as to impede the normal and reasonable movement of traffic except when reduced speed is necessary for safe operation or in compliance with law.

Whenever the commissioner and superintendent of the highway patrol acting jointly, or local authorities within their respective jurisdictions determine that slow speeds on any part of a highway consistently impede the normal and reasonable movement of traffic, the commissioner and superintendent, or such local authorities, may determine and declare a minimum speed limit below which no person shall drive a vehicle except when necessary for safe operation or in compliance with law.

§ 5.) Section 39-09-10 of the North Dakota Century Code is hereby created and enacted to read as follows:

39-09-10. Charging Violations and Rule in Civil Actions.)
1. In every charge of violation of any speed regulation in this chapter the complaint and the summons or notice to appear shall specify the speed at which the defendant is

alleged to have driven and also the maximum or minimum speed applicable within the district or at the location.

2. The provisions of this chapter declaring maximum or minimum speed limitations shall not be construed to relieve the plaintiff in any action from the burden of proving negligence on the part of the defendant as the proximate cause of an accident.

§ 6. **Amendment.)** Subsection 18 of section 40-05-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

18. **Speed of Vehicles and Locomotives.**

To regulate, within the limits prescribed by chapter 39-09, the speed of vehicles and locomotives within the corporate limits of the corporation;

§ 7. **Amendment.)** Subsection 14 of section 40-05-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

14. **Traffic Regulation.** To regulate, control, or restrict within designated zones, or congested traffic districts, except that the speed limit for vehicles shall be subject to the limitations prescribed by chapter 39-09, the use of streets, alleys, or other public ways by various classes of traffic, except that any municipal regulations shall be ineffective as to common carriers licensed by this state under a certificate of public convenience and necessity until such regulations are approved by the public service commission;

Disapproved March 18, 1963.

Filed March 18, 1963.

CHAPTER 441

H. B. No. 781
(Fitch)

HIGHWAY BILLBOARD ADVERTISING

AN ACT

Relating to the regulation of advertising devices adjacent to highways in the state of North Dakota, and providing a penalty.

Veto

March 19, 1963

The Honorable Ben Meier
Secretary of State
Bismarck, North Dakota

Dear Mr. Meier:

I withhold approval of House Bill No. 781.

The 1959 Session of the North Dakota Legislature established the policy of State control of billboard advertising along our interstate highway system. In 1959, this law passed with 148 senators and representatives voting to establish billboard advertising control. Only 8 members voted against it, with 6 absent or not voting.

On the basis of the 1959 legislation controlling billboard advertising, now section 24-01-32 of the North Dakota Century Code, the State of North Dakota contracted with the Federal Bureau of Roads to receive an additional one-half of one percent of federal aid for portions of interstate highway construction. Passage of House Bill No. 781 would open the question of repayment to the Federal Bureau of Roads of funds received as an incentive to control billboard advertising on the interstate highway system.

The interstate highway system was conceived as a nationwide traffic network which would combine the finest facilities possible for the motoring public. This concept included safety and a retention of the natural beauty of the countryside. It is widely accepted by the public and recognized by the Federal Bureau of Roads that positive steps must be taken to reduce distraction and other hazards to driving caused by roadside advertising. It is also necessary that the esthetic value of the open road and the countryside be protected for this generation and coming generations.

Without detracting from the necessary and excellent service our billboard sign companies give to the business community and the consuming public, I still regard positive control of billboard advertising along state highways to be in the best public interest. I am convinced that the North Dakota Highway Department can work with the outdoor advertising industry in developing roadside advertising control policies which will be mutually acceptable.

The passage of House Bill No. 781 would also create substantial cost to the Highway Department in the administration of its provisions.

I therefore veto House Bill No. 781.

Sincerely yours,
WILLIAM L. GUY
Governor

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

§ 1. Short Title.) This Act may be cited as the "Outdoor Advertising Act".

§ 2. Declaration of Policy.) It is hereby declared to be in the public interest to preserve natural beauty along the highways while at the same time recognizing that both the convenience of travel and the interests of the economy as a whole require a reasonable freedom to advertise.

§ 3. Definitions.) The following terms, wherever used or referred to in this Act, shall have the following meanings unless a different meaning clearly appears from the context:

1. "Advertising device" means any billboard, sign, notice, poster, display, emblem or similar item, located out of doors and which is intended to be viewed by the public from a highway, and includes any structure used for the display of any such outdoor advertising device. A double face or v-type structure shall be considered as a single device facing in both directions;

2. "Business of outdoor advertising" means the business conducted for direct profit through rentals or other compensation received from the erection or maintenance of advertising devices;

3. "Commissioner" means the state highway commissioner;

4. "Highway" means every way or place of whatever nature open to the use of the public for vehicular travel in

this state, outside of cities and other incorporated municipalities;

5. "Limited access highway" shall mean every highway, street, or roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the same except at such points only and in such manner as may be determined by the public authority having jurisdiction over such highway, street, or roadway;

6. "Person" means an individual, partnership, association, or corporation;

7. "Scenic area" means any of the following areas adjacent to highways:

- a. Land in or within two hundred and fifty feet of national and state parks, and historic shrines and monuments maintained at public expense;
- b. Land maintained by the commissioner as picnic or rest areas;
- c. Land not in an area zoned for or devoted to business, commercial, or industrial purposes, in which the landscape is generally regarded as possessing unusual attractiveness, and which, with the consent in writing of the owner of the land, has been designated as a scenic area by the commissioner.

8. "Travelers' lodge" means any hotel, motel, or other establishment which furnishes lodging to travelers;

9. "To erect" includes the act of placing, constructing, painting, creating, or bringing into being an advertising device on a site adjacent to a highway, but does not include the changing of copy upon, or the repair or replacement of, an existing legal advertising device; and

10. "To maintain" includes the act of leasing as lessor, operating, displaying, posting, or changing copy upon an erected advertising device.

§ 4. Enforcement of Provisions by Commissioner—Applicability.) It shall be the duty of the commissioner to administer and enforce the provisions of this Act. This Act shall be applicable throughout the state except within cities and other incorporated municipalities and except with respect to official signs erected by the state or any local subdivision thereof.

§ 5. Licenses.) Notwithstanding the provisions of section 4, no person shall engage in the business of outdoor advertising anywhere within the state without obtaining a license from the commissioner. The fee for such license, hereby imposed, shall be fifty dollars per annum payable annually in advance.

Application for a license or renewal of a license, shall be made on a form furnished by the commissioner, shall contain such pertinent information as the commissioner may require, and shall be accompanied by the annual fee. Licenses granted under this section shall expire on the thirty-first day of December of each year, and shall not be prorated.

Every license issued by the commissioner shall be assigned a separate identification number and it shall be the duty of each permittee to fasten to each advertising device a water-proof label indicating the assigned number. This label shall be supplied by the advertising device owner and shall not be less than two inches by four inches in size. Those license numbers assigned by the commissioner shall remain constant. In the event of sale or transfer of ownership of advertising device, the owner will assume the license number providing he complies with provisions set forth in this Act.

The commissioner shall have authority, after a hearing upon thirty days' notice in writing to the licensee, to revoke a license where it shall find that any material information required to be given in the application therefor was false or misleading or that the licensee has violated any of the provisions of this Act, unless such licensee shall, before the expiration of said thirty days, correct such false or misleading information and comply with the provisions of this Act.

§ 6. Bond Requirements.) A permit for an advertising device shall not be issued to any applicant until the applicant shall have filed with the commissioner a corporate surety bond, approved as to form by the commissioner and in the principal sum hereinafter specified, conditioned that the advertising device or devices covered by the bond shall be erected and at all times maintained in accordance with all provisions of this Act and with all lawful orders and regulations of the commissioner relating to such device or devices, and that such device or devices will be removed by the permittee within thirty days after the expiration or revocation of the permit or permits covering same. Said bond shall remain in full force and effect as long as any permit is held by the permittee and as long as any duty or obligation of the permittee with respect to such device or devices shall remain unsatisfied. The surety on said bond may cancel said bond upon giving thirty days' notice in writing to the commission and thereafter shall be relieved of liability for any breach of condition occurring after the effective date of said cancellation. The principal sum of the bond shall be based on the number of permits issued to the permittee, and shall be constantly maintained in undiminished amount, as follows:

For up to 5 devices	\$ 500.00
For from 6 to 25 devices	1,000.00
For 26 or more devices	5,000.00

In lieu of the bond required aforesaid, there may be filed an insurance policy approved by the commissioner which provides the same protection as that specified above. The aggregate liability of the surety for all breaches of the conditions of said bond shall, in no event, exceed the sum of the bond.

§ 7. Removal.) Any advertising device not covered by a current permit as required by section 5 hereof, or which is owned or maintained by a person engaged in the business of outdoor advertising without a license contrary to the provisions of section 5 hereof, or which is in violation of any provisions of this Act, is hereby declared to be illegal and shall be removed by the commissioner who, for that purpose, may enter upon private property without incurring liability for so doing and may recover from the permittee or owner of the device, under the bond or insurance policy provided for in section 6 or otherwise, the cost of removal, said recovery to be in the minimum amount of at least twenty-five dollars; provided, however, that, as a prerequisite to such removal and recovery, if any advertising device bears thereon the name and address of the owner hereof or his identification number said owner must be given written notice to remove said structure or sign within thirty days after the receipt thereof, after which the commissioner may remove same as aforesaid.

§ 8. General Regulations with Respect to the Maintenance of Advertising Devices.) No advertising device shall be hereafter maintained:

1. Which purports to be or is in imitation of or resembles an official traffic-control device or railroad sign or signal, or which hides from view or interferes with the effectiveness of any official traffic-control device or any railroad sign or signal.
2. Which uses the word "stop" or "danger" prominently displayed, or presents or implies the need or requirement of stopping, or the existence of danger.
3. If placed in such manner as to prevent any traveler on any highway from obtaining a clear view of approaching vehicles for a distance of five hundred feet along the highway.
4. Within a distance of one thousand feet from the point of intersection of a highway at grade with another highway or with a railroad, unless traffic at such inter-

section is controlled by official traffic-control devices; provided, however, that advertising may be affixed to or located adjacent to a building at such intersections in such a manner as not to materially cause any greater obstruction of vision than that caused by the building itself.

5. If within the right-of-way of any highway.
6. On private land without the written consent of the owner or occupant thereof.
7. Which contain statements, words or pictures of an obscene, indecent, or immoral character, or such as will offend public morals or decency.
8. On rocks, trees, or other perennial plants or on poles maintained by public utilities.
9. Unless maintained in good general condition and in a reasonable state of repair.
10. Within a specifically designated scenic area.

§ 9. General Regulations with Respect to the Erection of Advertising Devices.) No advertising device shall be hereafter erected:

1. Within three hundred feet of and facing a residence, church, or school;

2. Outside of areas zoned for or devoted to business, commercial, or industrial purposes, in closer proximity to any lawful existing advertising device on the same side of the highway than the number of lineal feet which equals one and one-half the square foot area of the proposed new device; provided that such required spacing shall in no case be less than three hundred and fifty feet; and provided further that not more than two advertising devices advertising a travelers' lodge and located within ten miles of the establishment so advertised shall be exempt from the requirements of this subsection if such devices are not erected in closer proximity to any lawfully existing structure on the same side of the highway than two hundred and fifty feet. For the purpose of the foregoing spacing requirements, a series of up to six small signs, each of an area no greater than six square feet and spaced at least one hundred feet apart, designed to be read in sequence to convey a single message, shall be considered as one advertising device; and the spacing distances between such a series of signs and other advertising devices shall be measured from the first and last sign in such series. Advertising devices which are exempt from the spacing requirements

of this section pursuant to section 11 shall not be taken into account in determining the spacing required hereunder for other advertising devices;

3. The provisions of this section shall not apply to advertising devices in existence on the effective date of this Act.

§ 10. Additional Regulations Applicable to Limited Access Highways.) Advertising devices adjacent to limited access highways are subject to all provisions of this Act, and in addition are subject to the further regulations hereinafter set forth:

1. No advertising device shall be hereafter erected adjacent to a limited access highway unless located upon property access to which is available otherwise than from the traveled portion of such limited access highway.

2. Notwithstanding the provisions of subsection 2 of section 9, no advertising device shall be hereafter erected adjacent to a limited access highway outside of areas zoned for or devoted to business, commercial, or industrial purposes in closer proximity to any lawful, existing advertising device on the same side of the highway than the number of lineal feet which equals two times the square foot area of the proposed new device; provided that such required spacing shall in no case be less than four hundred feet; and provided further that not more than two advertising devices advertising a travelers' lodge and located within ten miles of the establishment so advertised shall be exempt from the requirements of this subsection if such devices are not erected in closer proximity to any lawfully existing structure on the same side of the highway than two hundred and fifty feet. Not more than two advertising devices of each of the kinds described in section 11 hereof and owned by the same owner are exempt from the foregoing spacing requirements, and such exempt devices shall not be taken into account in determining the spacing required hereunder for other advertising devices.

3. The provisions of this section shall not apply to advertising devices in existence on the effective date of this Act.

§ 11. Certain Advertisements Excepted.) The following advertising devices are excepted from the requirements of sections 5 and 6, relating to permits, identification and bond, and from the spacing requirements of subsection 2 of section 9, and, to the extent therein specified, from the spacing requirements of subsection 2 of section 10:

1. Point of sale signs. Advertising devices containing a total combined advertising area of not more than five hundred square feet and limited to ten in number, located within two

hundred feet of the center of any place of business and which advertise goods or services sold, produced, or rendered thereon.

2. Farm product signs. Advertising devices located on any farm and within three hundred feet of the farm residence or other principal farm buildings or of the entrance roadway to the farm, and which relate in whole or in part to farm products, merchandise, or service sold, produced, manufactured, or furnished on such farm, provided that no such device shall exceed twenty square feet in area.

3. For sale signs. Advertising devices upon real property and advertising the same as being for sale or for rent.

§ 12. Disposition of Fees.) All moneys received by the commissioner under the provisions of this Act shall be paid by the commissioner into the state treasury, and allocated to the commissioner for use in the administration of this Act.

§ 13. Regulations.) The commissioner is authorized to promulgate reasonable regulations with respect to the administration of this Act. Such regulations shall not be inconsistent with the provisions of this Act nor shall they impose any substantive requirement not expressly provided for herein. The highway commissioner shall not enter into any agreements or contracts with the bureau of public roads or any other federal official or agency inconsistent with the terms of this Act, and he shall terminate any existing, executory agreement in regard to advertising adjacent to interstate highways in this state.

§ 14. Appeal.) Any person or persons aggrieved by any act or refusal to act of the commissioner may, within thirty days from the date of such act or of written notice of such refusal to act, appeal therefrom to an appropriate court of review by filing in said court a verified petition, theretofore duly served upon the commissioner, setting forth the facts upon which the request for judicial review is based.

§ 15. Penalty.) Any person, firm, corporation, or association violating any of the provisions of this Act shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not exceeding five hundred dollars.

Disapproved March 19, 1963.

Filed March 19, 1963.

CHAPTER 442

H. B. No. 860
(Maragos)

PUBLIC SAFETY DIVISION FUND TRANSFER

AN ACT

To reappropriate to the North Dakota highway patrol all unexpended funds appropriated to the public safety division, to repeal chapter 24-14 of the North Dakota Century Code, relating to the public safety division, and declaring an emergency.

Veto

March 20, 1963

The Honorable Ben Meier
Secretary of State
Bismarck, North Dakota

Dear Mr. Meier:

House Bill No. 532 transfers the Division of Public Safety from the Highway Department to the Highway Patrol on July 1, 1963. I have approved this action and have signed House Bill No. 532.

House Bill No. 860 is an emergency measure designed to immediately cut off funds to the Division of Public Safety for the balance of the present biennium. I can see no justification for not permitting an orderly transfer of the Division of Public Safety from the Highway Department to the Highway Patrol in the three months remaining of the present biennium.

I therefore veto House Bill No. 860.

Sincerely yours,

WILLIAM L. GUY

Governor

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

§ 1. Reappropriation of Funds for 1961-1963 Biennium.)
Such balance of the funds appropriated to the public safety division as contained in section 1 of chapter 37 of the 1961 Session Laws of North Dakota that may remain unexpended on the effective date of this Act are hereby reappropriated to the North Dakota highway patrol for purposes of encouraging

safe driving practices and public adherence to traffic safety laws through public education and information during the biennium ending June 30, 1963.

§ 2. **Repeal.)** Chapter 24-14 of the North Dakota Century Code is 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.

Disapproved March 20, 1963.

Filed March 20, 1963.

REFERRED MEASURE, DISAPPROVED

CHAPTER 443

SIXTEEN MILL LIMITATION ON COUNTY TAX LEVIES; REPEAL

Disapproval and repeal by referendum of House Bill No. 866 which is an amendment of section 57-15-06 of the North Dakota Century Code by chapter 346 of the 1961 Session Laws, and which would have lowered the county mill levy limit to sixteen mills and exempted taxes levied for poor relief from such limitation.

Disapproved June 26, 1962.

37,529 to 64,874

Note: This was measure No. 4 on the primary election ballot.

INITIATED MEASURE, APPROVED

CHAPTER 444

SECRET CONSOLIDATED PRIMARY BALLOT

An initiated measure for an Act providing for a secret consolidated primary election ballot.

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

§ 1. Secret Consolidated Primary Election Ballot—Form—(Voters Must Not Split Ballot.) At the primary election there shall be one ballot for all parties or principles which shall be entitled "consolidated primary election ballot". The names of all aspirants for nomination of each political party or principle for the different offices specified in section 16-04-16 shall be arranged in separate columns. The political party or principle which cast the largest vote for governor at the last preceding primary election shall have the left hand column, and the party or principle casting the next largest vote shall have the next column and so on. A six-point solid rule shall run vertically between the columns. No squares shall be left at the head of the ballot. At the head of each column shall be placed the name of the political party or principle which it represents. Immediately below such title in each column shall be placed the language, "You cannot split your ballot in the primary election. If you vote for candidates of more than one party, your ballot will be rejected." Immediately below such language shall be placed the following language: "Put a cross mark (x) opposite the name of the candidate for whom you wish to vote." The name of each office shall appear in the center of each party column at the head of the names of aspirants for such office. At the right of the name of each group of aspirants for each office shall be placed the language "Vote for.....name (or names) only". At the right of the name of each aspirant shall be placed a square for a cross mark. The judges and the inspector of elections when handing a ballot to a voter shall inform him that if he splits his ballot or votes for candidates of more than one party his ballot will be rejected.

***§ 2. Consolidation of Precinct Committeemen's Ballot.)** The names of candidates seeking election as precinct committeemen shall be printed in their preferred political party

***Note:** Section 2 of this initiated measure was subsequently amended by chapter 179 of the 1963 Session Laws.

column on the consolidated primary ballot listing candidates for state and federal offices. The names of precinct committeeman candidates shall appear at the bottom of the consolidated ballot in their preferred party column.

Approved November 6, 1962.

110,193 to 81,356

Note: This was measure No. 3 on the general election ballot.

CONSTITUTIONAL MEASURES, APPROVED

CHAPTER 445

CONTINUITY OF GOVERNMENT

House Concurrent Resolution "A", chapter 409, 1961 Session Laws, proposed by the 37th Legislative Assembly of the state of North Dakota providing for an amendment to the Constitution of the state of North Dakota granting powers to the legislative assembly to insure continuity of state and local governmental operations in periods of emergency resulting from disaster caused by enemy attack.

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

§ 1.) The legislative assembly, in order to insure continuity of state and local governmental operations in periods of emergency resulting from disaster caused by enemy attack, shall have the power and immediate duty (1) to provide for prompt and temporary succession to the powers and duties of public offices, of whatever nature and whether filled by election or appointment, the incumbents of which may become unavailable for carrying on the powers and duties of such offices, and (2) to adopt such other measures as may be necessary and proper for insuring the continuity of governmental operations including, but not limited to, waiver of constitutional restrictions upon the place of transaction of governmental business, upon the calling of sessions of the legislative assembly, length of sessions, quorum and voting requirements, subjects of legislation and appropriation bill requirements, upon eligibility of legislators to hold other offices, residence requirements for legislators, and upon expenditures, loans or donations of public moneys. In the exercise of the powers hereby conferred the legislative assembly shall in all respects conform to the requirements of this Constitution except to the extent that in the judgment of the legislative assembly so to do would be impracticable or would admit of undue delay.

Approved June 26, 1962.

56,097 to 46,646

Note: This was measure No. 1 on the primary election ballot.

CHAPTER 446

STATE BOND ISSUE

A constitutional amendment authorizing the state of North Dakota to issue its general obligation bonds and revenue bonds and use the proceeds to make loans to privately or cooperatively owned enterprises to plan, construct, acquire, equip, improve and extend facilities for converting natural resources into power and generating and transmitting such power, and to acquire real and personal property and water and mineral rights needed for such facilities, limiting the aggregate maximum amount of general obligation bonds for this purpose to an amount, with other such bonds, not exceeding 5% of the full and true value of the taxable property in the state, and authorizing the legislature to implement the same by appropriate legislation.

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

§ 1.) Notwithstanding any other provision in the Constitution, and for the purpose of promoting the economic growth of the state, the development of its natural resources, and the prosperity and welfare of its people, the state may issue bonds and use the proceeds thereof to make loans to privately or cooperatively owned enterprises to plan, construct, acquire, equip, improve, and extend facilities for converting natural resources into power and generating and transmitting such power, and to acquire real and personal property and water and mineral rights needed for such facilities.

§ 2.) The state may issue general obligation bonds for this purpose to an amount which, with all outstanding general obligation bonds, less the amount of all money on hand and taxes in process of collection which are appropriated for their payment, will not exceed five percent of the full and true value of all of the taxable property in the state, to be ascertained by the last assessment made for state and county purposes: but nothing herein shall increase or diminish the limitations established by other provisions of the Constitution on the amount of bonds therein authorized to be issued.

§ 3.) The state may also issue revenue bonds for the purpose of providing part or all of the funds required for any project undertaken under section 1, payable solely from sums realized from payments of principal and interest on money loaned for such project, and from other similar projects if so determined by the legislature, and from the liquidation of security given for such payments. Revenue bonds issued for any project shall not exceed the cost thereof, including all expenses reasonably incurred to complete and finance the project, but shall not be subject to any other limitation of amount.

§ 4.) The full faith and credit of the state shall be pledged for the prompt and full payment of all bonds issued under section 2. Its obligation with respect to bonds issued under section 3 shall be limited to the prompt and full performance of such covenants as the legislature may authorize to be made respecting the enforcing of the provisions of underlying loan agreements and the segregation, accounting, and application of bond proceeds and of loan payments and other security pledged for the payment of the bonds. All bonds authorized by sections 1 to 3, inclusive, shall mature within forty years from their respective dates of issue, but may be refunded at or before maturity in such manner and for such term and upon such conditions as the legislature may direct. Any such bonds may, but need not be, secured by mortgage upon real or personal property acquired with the proceeds of the same or any other issue of general obligation or revenue bonds, or upon other property mortgaged by the debtor. Pledges of revenues and mortgages of property securing bonds of any issue may be prior or subordinate to or on a parity with pledges and mortgages securing any other issue of general obligation or revenue bonds, as determined by the legislature from time to time in conformity with any provisions made for the security of outstanding bonds.

§ 5.) The legislature shall pass such laws as are appropriate to implement this amendment.

§ 6.) If any section of this amendment, or any part of a section, or any application thereof to particular circumstances should be held invalid for any reason, such invalidity shall not affect the validity of all remaining provisions of this amendment which may be given effect without that which is declared invalid, as applied to any circumstances: and for this purpose all sections and parts of sections and applications thereof are declared to be severable.

Approved November 6, 1962.

105,787 to 84,112

Note: This was measure No. 1 on the general election ballot.

CHAPTER 447

COUNTY OFFICIALS' TERMS

An initiated constitutional amendment to amend and reenact section 173 of Article X of the Constitution of the state of North Dakota, as amended, to provide that the register of deeds, county auditor, treasurer, sheriff, state's attorney, county judge, and clerk of the district court shall hold their office for a term of four years.

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

§ 173.) There shall be elected in each county, organized under the provisions of section 172 of the Constitution of the state of North Dakota, 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 for a term of four years and until their successors are elected and qualified; provided in counties having fifteen thousand population or less, the county judge shall also be clerk of the district court; provided further that in counties having population of six thousand or less the register of deeds shall also be clerk of the district court and county judge. This amendment shall be construed as applying to the officers elected at the general election in 1962. This amendment shall be self-executing, but legislation may be enacted to facilitate its operation.

Approved November 6, 1962.

111,733 to 91,924

Note: This was measure No. 2 on the general election ballot.

CONSTITUTIONAL MEASURES, DISAPPROVED

CHAPTER 448

BUDGETS OF INSTITUTIONS OF HIGHER EDUCATION

House Concurrent Resolution "G", chapter 410, 1961 Session Laws, proposed by 37th Legislative Assembly of the state of North Dakota to provide for the amendment of subdivision (d) of subsection 6 of Article 54 of the Constitution of the state of North Dakota by adding the words: "The budgets and appropriation measures for the agricultural experiment stations and their substations and the cooperative agriculture extension services of the North Dakota State University of Agriculture and Applied Science may be separate from those of state educational institutions." so as to read as follows:

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

Subdivision (d) of subsection 6 of Article 54 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

Article 54

6. (d) It shall be the duty of the heads of the several state institutions hereinbefore mentioned, to submit the budget requests for the biennial appropriations for said institutions to said state board of higher education; and said state board of higher education shall consider said budgets and shall revise the same as in its judgment shall be for the best interests of the educational system of the state; and thereafter the state board of higher education shall prepare and present to the state budget board and to the legislature a single unified budget covering the needs of all the institutions under its control. "Said budget shall be prepared and presented by the board of administration until the state board of higher education organizes as provided in section 6 (a)." The appropriations for all of said institutions shall be contained in one legislative measure. The budgets and appropriation measures for the agricultural experiment stations and their substations and the cooperative agriculture extension service of the North Dakota State University of Agriculture and Applied Science may be separate from those of state educational institutions.

Disapproved June 26, 1962.

50,005 to 50,203

Note: This was measure No. 2 on the primary election ballot.

CHAPTER 449

REPEAL OF SECTION 39

Senate Concurrent Resolution "E", chapter 411, 1961 Session Laws, proposed by the 37th Legislative Assembly of the state of North Dakota to repeal section 39 of the Constitution of the state of North Dakota which is as follows: "No member of the legislative assembly shall, during the term for which he was elected, be appointed or elected to any civil office in this state, which shall have been created, or the emoluments of which shall have been increased, during the term for which he was elected; nor shall any member receive any civil appointment from the governor, or governor and senate, during the term for which he shall have been elected."

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

§ 1. **Repeal.**) Section 39 of the Constitution of the state of North Dakota is hereby repealed.

Disapproved June 26, 1962.

43,822 to 56,695

Note: This was measure No. 3 on the primary election ballot.

PROPOSED U.S. CONSTITUTIONAL AMENDMENT RATIFIED

CHAPTER 450

SENATE CONCURRENT RESOLUTION "Z"

(Lips, Roen, Chesrown, Mahoney, Meidinger, Holand, Erickson)
(Kjos, Sanford, Kautzmann, Morgan, Brooks, Trenbeath, Miller)
(Kisse, Forkner, Longmire, Becker, Baker)

RATIFICATION, PROPOSED AMENDMENT TO U. S. CONSTITUTION

A concurrent resolution for the ratification of a proposed amendment to the Constitution of the United States, prohibiting states from denying a citizen the right to vote through imposition of a poll tax.

WHEREAS, the Eighty-seventh Congress of the United States of America, at its Second Session, in both houses, by a constitutional majority of two-thirds thereof, has made the following proposal to amend the Constitution of the United States of America in the following words, to wit:

Joint Resolution

Proposing an amendment to the Constitution of the United States relating to the qualifications of electors.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following article is hereby proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution only if ratified by the legislatures of three-fourths of the several states within seven years from the date of its submission by the Congress:

"Article ~~XXIV~~"

"SECTION 1. The right of citizens of the United States to vote in any primary or other election for President or Vice President, for electors for President or Vice President, or for Senator or Representative in Congress, shall not be denied or abridged by the United States or any State by reason of failure to pay any poll tax or other tax.

"SECTION 2. The Congress shall have power to enforce this article by appropriate legislation."

Now, Therefore, be it Resolved by the Senate of the State of North Dakota, the House of Representatives concurring Therein:

That the said proposed amendment to the Constitution of the United States of America be and the same is hereby ratified by the Thirty-eighth Legislative Assembly of the state of North Dakota; and

Be It Further Resolved, that certified copies of this resolution shall be forwarded by the secretary of state to the Administrator of General Services, Washington, D.C.; to the President of the Senate; and to the Speaker of the House of Representatives of the Congress of the United States.

Filed March 15, 1963.

CONSTITUTIONAL AMENDMENTS, PROPOSED

CHAPTER 451

SENATE CONCURRENT RESOLUTION "O" (Committee on Appropriations)

PUBLICITY PAMPHLET, REPEAL

A concurrent resolution for the repeal of the tenth paragraph of section 25 of the Constitution of the state of North Dakota, requiring the secretary of state to publish a publicity pamphlet.

Be It Resolved by the Senate of the State of North Dakota, the House of Representatives concurring therein:

That the following proposed repeal of the tenth paragraph of section 25 of the Constitution of the state of North Dakota as printed in the North Dakota Century Code is agreed to and shall be submitted to the qualified electors of the state of North Dakota for approval or rejection at the general election in November 1964, in accordance with the provisions of section 202 of the Constitution of the state of North Dakota, as amended:

§ 1. Repeal.) The tenth paragraph of section 25 of the Constitution of the state of North Dakota as printed in the North Dakota Century Code which reads:

All measures submitted to the electors shall be published by the state as follows: "The secretary of state shall cause to be printed and mailed to each elector a publicity pamphlet, containing a copy of each measure together with its ballot title, to be submitted at any election. Any citizen, or the officers of any organization, may submit to the secretary of state for publication in such pamphlet, arguments concerning any measure therein, upon first subscribing their names and addresses thereto and paying the fee therefor, which, until otherwise fixed by the legislature, shall be the sum of two hundred dollars per page."

is hereby repealed.

Filed March 6, 1963.

CHAPTER 452

HOUSE CONCURRENT RESOLUTION "F"
(Reimers, Davis (Dunn), Christensen (Ward), Ganser)BUDGETS AND APPROPRIATIONS OF INSTITUTIONS
OF HIGHER LEARNING

A concurrent resolution for an amendment to subdivision (d) of subsection 6 of article 54 of the Amendments to the Constitution of the state of North Dakota, relating to budgets and appropriations for institutions of higher education.

Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That the following proposed amendment to subdivision (d) of subsection 6 of article 54 of the Amendments to the Constitution of the state of North Dakota is agreed to and shall be submitted to the qualified electors of the state of North Dakota at the primary election in June, 1964, in accordance with the provisions of section 202 of the Constitution of the state of North Dakota, as amended.

§ 1. **Amendment.)** Subdivision (d) of subsection 6 of article 54 of the Amendments to the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

Article 54

6. (d) It shall be the duty of the heads of the several state institutions hereinbefore mentioned, to submit the budget requests for the biennial appropriations for said institutions to said state board of higher education; and said state board of higher education shall consider said budgets and shall revise the same as in its judgment shall be for the best interests of the educational system of the state; and thereafter the state board of higher education shall prepare and present to the state budget board and to the legislature a single unified budget covering the needs of all the institutions under its control. "Said budget shall be prepared and presented by the board of administration until the state board of higher education organizes as provided in section 6 (a)." The appropriations for all of said institutions shall be contained in one legislative measure. The budgets and appropriation measures for the agricultural experiment stations and their substations and the extension division of the North Dakota state university of agriculture and applied science may be separate from those of state educational institutions.

Filed March 14, 1963.

CHAPTER 453
HOUSE CONCURRENT RESOLUTION "V"
(Brown, Christensen (McLean))

EMOLUMENTS OF OFFICE, REPEAL

A concurrent resolution for the repeal of section 39 of the Constitution of the state of North Dakota which prohibits a legislator to hold any state civil office during the term for which he was elected if such office was created or its emoluments increased during the term for which such legislator was elected.

Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That the following proposed repeal of section 39 of the Constitution of the state of North Dakota is agreed to and shall be submitted to the qualified electors of the state of North Dakota for approval or rejection at the primary election in June, 1964, in accordance with the provisions of section 202 of the Constitution of the state of North Dakota, as amended:

§ 1. Repeal.) Section 39 of the Constitution of the state of North Dakota is hereby repealed.

Filed March 14, 1963.

CHAPTER 454
SENATE CONCURRENT RESOLUTION "T"
(Lips, Wartner)

MUNICIPAL JUDGES

A concurrent resolution for the amendment of section 113 of the Constitution of the state of North Dakota relating to the office of police magistrate; changing the name thereof to municipal judge, and providing for their selection or election, qualifications and jurisdiction.

Be It Resolved by the Senate of the State of North Dakota, the House of Representatives concurring therein:

That the following proposed amendment of section 113 of the Constitution of the state of North Dakota is agreed to and shall be submitted to the qualified electors of the state of North Dakota for approval or rejection at the primary election to be held in June, 1964, in accordance with the provisions of section 202 of the Constitution of the state of North Dakota, as amended:

§ 1. **Amendment.)** Section 113 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

§ 113.) The legislative assembly shall provide by law for the selection or election and the qualifications of municipal judges in cities, incorporated towns, and villages, who shall hear, try, and determine cases arising under the ordinances of said cities, towns and villages, and shall have such other jurisdiction as the legislative assembly may confer upon them.

Filed March 18, 1963.

HOUSE RESOLUTIONS

HOUSE RESOLUTION No. 1 (Burvee, Baldwin)

IDENTIFICATION TAGS

A resolution directing the chief clerk of the house of representatives to provide identification tags for all members and employees of the house.

WHEREAS, it is difficult for the members of the house of representatives and the employees thereof to recognize one another; and

WHEREAS, it would be very helpful if identification tags were provided to each member and employee of the house of representatives;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota:

That the chief clerk of the house is hereby directed to procure as soon as possible white identification tags for all members and employees of the house of representatives and all employees shall wear such tags during all duty hours.

Filed January 15, 1963.

HOUSE RESOLUTION No. 2 (Vinje, Mueller, Bloom)

ELECTION CONTESTS

A resolution relating to the election contests in the 18th Legislative District.

WHEREAS, Frank Bassingthwaite of Cavalier County, 18th Legislative District, has filed with the secretary of state a contest contesting the election of Glen Goodman of the 18th Legislative District; and

WHEREAS, Robert Wells of Cavalier County, 18th Legislative District, has filed a contest with the secretary of state contesting the election of Albert Bowles of the 18th Legislative District; and

WHEREAS, such notices of contests have been forwarded to the house of representatives and a committee having been appointed to check the contested elections; and

WHEREAS, the charges contained in said notices of contest should be investigated by the house of representatives;

Now, Therefore, Be It Resolved by the House of Representatives of the Thirty-eighth Legislative Assembly:

That such committee shall have all power and authority necessary to investigate the charges contained in such notices of contest, which shall specifically include the following powers and authority:

1. Authority to subpoena witnesses;
2. Subpoena public and private records;
3. To administer oaths or affirmations to all witnesses;
4. To apply to the House for the punishment of any witnesses for contempt or for any disobedience of a subpoena, a refusal to be sworn, or to answer as a witness;
5. To reduce the testimony to writing as the committee deems it advisable;
6. To conduct such hearing at such place or places as the committee may deem necessary or convenient;
7. That the committee be authorized to employ such personnel or other assistance as they may deem necessary;

Be It Further Resolved, that the expenses of such investigation as are authorized by the committee be paid from legislative funds, including subpoena fees and the mileage and fees of subpoenaed witnesses at the rates provided for witnesses of the district courts.

Filed January 15, 1963.

HOUSE RESOLUTION No. 3
(Link, Christensen, Aamoth, Halcrow)

INAUGURATION COMMENDATION

A resolution expressing appreciation to the adjutant general, the national guard, and the governor's reception and ball committee for their activities in making the inauguration activities a success.

WHEREAS, Brigadier General LaClair Melhouse, North Dakota adjutant general, and the North Dakota national guard have for many sessions handled the governor's inaugural program in a most commendable manner; and

WHEREAS, they have again on January 9, 1963 performed these duties with finesse, dignity, and courtesy toward the Honorable William L. Guy and his family, as well as the other elected state officials; and

WHEREAS, the governor's reception and ball committee planned and made the governor's reception and ball an outstanding event;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota:

That the house of representatives of the Thirty-eighth Legislative Assembly of the state of North Dakota does hereby express its thanks and appreciation to Brigadier General LaClair Melhouse and the national guard and to the governor's reception and ball committee and to all others who furnished numbers for the programs or assisted in any way with the success of these events.

Be It Further Resolved, that this resolution be printed in the journal and that properly authenticated copies be sent to Brigadier General LaClair Melhouse and Mrs. Charles Tighe, chairman of the governor's reception and ball committee.

Filed January 17, 1963.

HOUSE RESOLUTION No. 4
(Loder, Christensen (Ward), Knudsen)

OFFICIAL PHOTOGRAPHER

A resolution to appoint an official photographer for the house of representatives of the Thirty-eighth Legislative Assembly of the state of North Dakota.

Be It Resolved by the House of Representatives of the State of North Dakota:

WHEREAS, for historical purposes it has been the custom of all North Dakota legislative assemblies to have composite group pictures made of all members of such assemblies, and

WHEREAS, Rudrud Studio of Bismarck, North Dakota, offers to make a large composite group picture of the members of the house of representatives of the Thirty-eighth Legislative Assembly, size forty-nine by thirty-eight inches, composite framed and ready to hang, and one hundred and seventeen, eleven by fourteen inches, copies of said composite for each member and desk force of the house, and one five by seven inch print of each representative for the state historical society, at a total cost of nine hundred ninety-nine dollars and fifty cents.

Now, Therefore, Be It Resolved, that Rudrud Studio of Bismarck, North Dakota, be and is hereby appointed official

photographer for the North Dakota house of representatives of the Thirty-Eighth Legislative Assembly.

Be It Further Resolved, that Rudrud Studio of Bismarck, North Dakota, be and is hereby awarded the sole privilege of photographing members of the house of the Thirty-eighth Legislative Assembly at a total cost of nine hundred ninety-nine dollars and fifty cents, to be taken out of legislative expenses.

If the one hundred seventeen, eleven by fourteen inches, copies are not completed prior to the closing of session, fifty dollars will be added to this bid for the expense of mailing said copies to the individual members.

Filed February 11, 1963.

HOUSE RESOLUTION No. 5

(Bratcher, Dick, Fitch, Goebel, Wagner, Mueller, Ganser)

INTERSTATE HIGHWAY WAGE SCALES

A resolution relating to the letting of contracts by the North Dakota state highway department for the construction of a bridge on Interstate Highway No. 94 across the Missouri River.

WHEREAS, the North Dakota state highway department had scheduled bid letting on the proposed bridge across the Missouri River on Interstate Highway 94 on Friday, February 8th, 1963; and

WHEREAS, on February 6th, 1963, the state highway department was requested by the secretary of labor to alter wage scales for certain classifications of labor contained in the specifications for said bridge project, which request involved increases in hourly wage rates ranging from 10 cents to \$1.95 per hour, or from 10 percent to 97 percent; and

WHEREAS, the requested increases in wage rates are higher than the prevailing wage rates for similar classifications in North Dakota, and it is the duty of the Davis-Bacon Section of the United States Department of Labor to determine wage rates on interstate highway construction projects consistent with the prevailing wage rates in the situs area of the construction; and

WHEREAS, the requested increases in wage rates are applicable only to certain classifications of labor, are disruptive of the existing wage relationships between different classifications of labor and are prejudicial to those classifications not similarly favored;

Now, Therefore, Be It Resolved that the House of Representatives of the Thirty-Eighth Legislative Assembly:

Strongly urges the Davis-Bacon Section of the United States Department of Labor to determine wage rates for said bridge construction consistent with those currently prevailing in the state of North Dakota as required by law.

Filed February 13, 1963.

HOUSE RESOLUTION No. 6
(Delayed Bills Committee)
(Collette, Lundene, Staven)

COMMENDATION OF LUTHER BERNTSON

A resolution commending Luther Berntson of Edinburg, North Dakota, upon his selection as North Dakota's outstanding young farmer, and wishing him success in national competition.

WHEREAS, Luther Berntson is the son of the late George R. Berntson, who was a respected long-time member of the North Dakota House of Representatives; and

WHEREAS, Luther Berntson has recently been selected by the North Dakota Junior Chamber of Commerce as North Dakota's outstanding young farmer of the year; and

WHEREAS, by virtue of having won such honor, Luther Berntson will represent the state of North Dakota in national competition;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota:

That the sincere congratulations of the North Dakota House of Representatives are hereby extended to Luther Berntson, North Dakota's outstanding young farmer, together with best wishes for success in national competition.

Filed February 26, 1963.

HOUSE RESOLUTION No. 7
(Dornacker, Baldwin)

SUPPORT OF EDUCATION

A resolution expressing the support of the North Dakota house of representatives for the future of education in North Dakota.

WHEREAS, the great state of North Dakota, like any business or individual, will either move ahead or slide backwards. The civilization of the world has progressed from the dark ages to our present civilization, only due to education; and

WHEREAS, North Dakota, through industry or changes in our present agricultural economy, has no choice but to export the majority of our young people. If we are to export these, our children, we must give them the best education possible or they will have only the choice of going through life as low wage earners; and

WHEREAS, we believe that the people of our great state want and are willing and capable of paying for education in both the elementary and secondary field and higher education field;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota:

That we the members of the Thirty-eighth Assembly of the North Dakota Legislature, by our action here, wish to convey to the presidents of our colleges, the instructors in our colleges, our schools, the students, their parents, and the parents of tomorrow that we will give our full support to the field of education; not with fancy frills but in a manner which will keep good instructors, facilities, and curriculum.

Filed March 14, 1963.

HOUSE RESOLUTION No. 8
(Maragos)

STATE HOSPITAL STUDY

A resolution directing the speaker of the house of representatives to appoint five members of the Thirty-eighth Legislative Assembly to work with three members of the North Dakota Medical Association to study the board of administration's operation of the state hospital.

WHEREAS, various committees have been appointed to investigate the board of administration's management of the state hospital and to offer recommendations as to how the operation of the hospital may be improved; and

WHEREAS, as a result of such investigations and recommendations there has been considerable legislative activity concerning the state hospital; and

WHEREAS, all of this activity has resulted in very little constructive legislation;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota:

That the speaker of the house of representatives is hereby directed to appoint five members of the house of representatives of the Thirty-eighth Legislative Assembly who immediately upon appointment shall choose one of their number to be chairman and who, together with three members of the North Dakota Medical Association appointed by such five members of the Thirty-eighth Legislative Assembly, shall comprise the Legislative-Medical State Hospital Committee. Such committee shall meet within sixty days of adjournment of the Thirty-eighth Legislative Assembly and at the call of the chairman. It shall be the duty of such committee to investigate and study the operation of the state hospital as affected and influenced by the board of administration and to formulate recommendations, based on such investigation, for efficient and improved operation and administration of such institution. The committee's recommendations shall be submitted to the board of administration who shall endeavor to carry out such recommendations. The committee members shall not be reimbursed for their expenses incurred as a result of any meetings or investigations necessitated by this resolution.

Filed March 18, 1963.

HOUSE CONCURRENT RESOLUTIONS

HOUSE CONCURRENT RESOLUTION "A" (Brown, Wagner)

RADIO AND TELEVISION DAY

A concurrent resolution for the purpose of designating January 23, 1963 as Radio and Television Broadcasters' Day at the state legislative assembly.

WHEREAS, North Dakota's radio and television stations actively participate with the legislative assembly in keeping the citizens of the state informed of the work and accomplishments of their representatives in state government.

Now, Therefore, be it Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That the house of representatives of the state of North Dakota, and the senate, individually and collectively, invite the radio and television station broadcasters of their respective districts to spend the day of January 23, 1963 at the state capitol as our guests, to witness at first hand, legislative process; and

Be It Further Resolved, that the house of representatives and the senate of the state of North Dakota join in the invitation to Dr. Frank Stanton, President of Columbia Broadcasting System, to address a joint session of the North Dakota Legislative Assembly and all radio and television broadcasters who are guests of the Legislative Assembly on such day.

Filed January 16, 1963.

HOUSE CONCURRENT RESOLUTION "B"

(Brown, Saugstad, Knudsen, Aamoth, Anderson (McHenry), Miller)
(From LRC Study)

LRC STUDY OF TELEPHONE AND POWER TAXATION

A concurrent resolution directing the legislative research committee to conduct a study of the equities of telephone companies' power generation and transmission companies' taxation during the 1963-1965 biennium.

WHEREAS, the subcommittee on taxation of the legislative research committee has done substantial work in the field of taxation of telephone companies in an attempt to promote tax equity among the various types of telephone companies; and

WHEREAS, there has been no recent study conducted for the purpose of analyzing the taxation of power generation and transmission companies; and

WHEREAS, the subcommittee on taxation is not satisfied that the work to date has been sufficiently extensive to warrant a complete change in the tax system pertaining to telephone companies and power generation and transmission companies because of lack of time to fully explore all possibilities of developing a more equitable tax system;

Now, Therefore be it Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That the legislative research committee is directed to carry on a study of the equities of the taxation of telephone companies and power generation and transmission companies during the next succeeding biennium in order that a taxation system may be developed which will tax all telephone companies and power generation and transmission companies which provide the same type of services in an equal manner, and to make its report and recommendations to the Thirty-ninth Legislative Assembly together with any legislation necessary to carry out such recommendations.

Filed March 18, 1963.

HOUSE CONCURRENT RESOLUTION "C"

(Bader, Meyer, Bratcher, Hertz, Gietzen, Menz, Austin)

REMOVAL OF MANDAN-MOTT RAILROAD BRANCH

A concurrent resolution urging the interstate commerce commission to prohibit the removal or abandonment of the Mandan South Branch of the Northern Pacific Railway Company.

WHEREAS, the Northern Pacific Railway Company has been ordered by the interstate commerce commission to remove its facilities between the communities of Mandan, North Dakota and Flasher, North Dakota; and

WHEREAS, such removal will eventually contribute to the total and complete abandonment of the entire Northern Pacific branch line between Mandan, North Dakota and Mott, North Dakota; and

WHEREAS, such branch line is the only railway linking the southwestern segment of North Dakota's agricultural economy to the state's major cities and out-of-state shipping points; and

WHEREAS, such abandonment of facilities and loss of service can only result in increased shipping costs, thereby affecting the economy of the entire southwestern part of North Dakota and the value of the farm land therein;

Now, Therefore, be it Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That the interstate commerce commission order the relocation of any segment of the Northern Pacific Railway branch line and facilities thereof that must necessarily be abandoned, and thereby prevent the complete abandonment of the entire branch line from Mandan to Mott, North Dakota.

And be it further resolved that copies of this resolution be sent to the North Dakota congressional delegation, Interstate Commerce Commission, Interstate and Foreign Commerce Committees of the United States House of Representatives and the United States Senate, and the Corps of Army Engineers.

Filed February 8, 1963.

HOUSE CONCURRENT RESOLUTION "G"
(Baldwin)

JOHN BURKE STATUE

A concurrent resolution relating to the placement and display of a statue of the Honorable John Burke.

WHEREAS, pursuant to chapter 331 of the 1961 Session Laws of North Dakota, the North Dakota Statuary Hall Commission has contracted with a sculptor for the furnishing of a statue of the Honorable John Burke for permanent placement in National Statuary Hall in the capitol building of the United States; and,

WHEREAS, the original of such statue will be shipped to Washington, D. C., for placement in National Statuary Hall in the United States capitol building, and a duplicate original of such statue will be shipped to Bismarck for permanent display in the state capitol building or other place upon the state capitol grounds;

Now, Therefore be it Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That the legislative assembly accepts the duplicate original statue of the Honorable John Burke for display as meeting

the requirements of chapter 331 of the 1961 Session Laws, and directs that the North Dakota Statuary Hall Commission, in cooperation with the state board of administration and the presiding officers of the legislative assembly, arrange suitable unveiling ceremonies at the state capitol while the Thirty-eighth Legislative Assembly is in session; and

Be It Further Resolved, that thereafter the Statuary Hall Commission, with the assistance and approval of the board of administration, shall make suitable arrangements for the placement and permanent display of such statue in the state capitol building or other suitable building on the state capitol grounds, or for its outdoor display upon the state capitol grounds.

Filed February 6, 1963.

HOUSE CONCURRENT RESOLUTION "H"
(Reimers, Tweten, Connolly)

PAYMENTS IN LIEU OF TAXES

A concurrent resolution urging the Congress of the United States to enact legislation authorizing the U. S. Fish and Wildlife Service to make certain payments to counties for lands acquired by the United States for fish and wildlife purposes.

WHEREAS, over 800,000 acres of land scattered throughout North Dakota have been acquired or are proposed for acquisition by the United States for wildlife refuges and areas under several programs of the U.S. Fish and Wildlife Service including the Migratory Bird Refuge, the Wetlands Programs, and the Garrison Diversion Unit; and

WHEREAS, lands so acquired are removed from the tax rolls of the counties and townships in which the areas or refuges are located and, as a result, these political subdivisions experience a significant loss in tax revenue sorely needed to carry on essential governmental activities and functions, as well as a loss of tax base from which tax revenue to pay existing bonded indebtedness is obtained; and

WHEREAS, the only payment to counties in which such refuge lands are located, as presently authorized by federal statute, is twenty-five percent of the revenues therefrom by the United States, which, according to studies that have been made by the Fish and Wildlife Service and state agencies, is only a fraction of that which would have been received in tax revenues had such land remained in private ownership;

Now, Therefore, be it Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That, in order to more adequately reimburse counties for tax revenue lost because of the acquisition of land by the United States for wildlife purposes the Thirty-eighth Legislative Assembly of the state of North Dakota urges the Congress of the United States to enact legislation that will provide:

1. An annual payment by the U.S. Fish and Wildlife Service to the counties concerned of an amount equal to one percent of the cost of the land acquired by the United States for wildlife purposes which cost shall be adjusted at regular intervals to reflect the current value of such land;
2. Payment in full of the proportionate share of the bonded indebtedness attributable to such land acquired by the United States for wildlife purposes at the time such lands are acquired; and

Be It Further Resolved, that a copy of this resolution be sent to the Secretary of the Interior and to each of the members of the North Dakota congressional delegation.

Filed March 18, 1963.

HOUSE CONCURRENT RESOLUTION "T"

(Bloom, Opedahl, Olsen (Burke-Divide), Olienyk)

LRC STUDY OF INDUSTRIAL ARTS

A concurrent resolution directing the legislative research committee to study the need for improving and enlarging courses and/or schools in the field of industrial arts and to determine whether it is feasible and practical to make industrial arts available to more students.

WHEREAS, there are three hundred four four-year public high schools in North Dakota attended by 38,840 students; and

WHEREAS, the big majority of these high schools and the students attending therein have little or no opportunity to pursue courses in industrial arts; and

WHEREAS, many students of high school age find their interests and aptitudes in the industrial arts field rather than in academic areas; and

WHEREAS, these students are inclined to drop out of school;

Now, Therefore, be it Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That the legislative research committee shall study the feasibility and practicability of enlarging North Dakota's industrial arts program on the secondary level taking into consideration the number of schools offering industrial arts, the number of schools that can give training in industrial arts, and the possibility of establishing certain high schools as industrial arts centers; that is, high schools with complete programs in industrial arts, and submit its findings and recommendations to the Thirty-ninth Legislative Assembly, together with such bills as may be necessary to carry out such recommendations; and

Be It Further Resolved, that the legislative research committee shall be authorized to call upon the office of the superintendent of public instruction, any school, and any institution of higher learning for such aid and assistance as it may deem desirable.

Filed March 18, 1963.

HOUSE CONCURRENT RESOLUTION "K"

(Committee on Employment)

LEGISLATIVE EMPLOYEES' SALARIES

A concurrent resolution providing and designating house and senate employees and naming and fixing their salaries.

Be It Resolved by the House of Representatives of the Thirty-eighth Legislative Assembly of the State of North Dakota, the Senate Concurring Therein:

That for and during this Thirty-eighth Legislative Assembly the following named persons be employed and appointed as officers and employees of the house and senate and shall be paid the compensation per diem set opposite their respective names:

House

Gerald Stair, chief clerk.....	\$25.00
Monty C. Burke, ass't chief clerk.....	18.00
Ruth Smith, desk reporter.....	25.00
Leo Leidholm, bill clerk.....	15.00
Arthur Laske, sergeant at arms	12.00
C. W. Edwards, ass't sergeant at arms.....	10.00
Leo Bergeron, calendar clerk.....	15.00
Ralph Scott, supt. of employees.....	18.00
Mike J. Burgad, bill room clerk.....	10.00

Alfred Hetland, bill room clerk.....	10.00
Florence Nemer, secretary to speaker.....	15.00
Cora Essington, chief steno. and payroll clerk.....	20.00
Eileen Yeiter, ass't chief steno.....	16.00
Vera M. Doleshy, stenographer.....	14.00
Mrs. Laura M. Knuth, stenographer.....	14.00
Barbara A. McAlpin, stenographer.....	14.00
Mary E. Schmidt, stenographer.....	14.00
ElaNor Weber, house appropriations clerk.....	15.00
Jean Otteson, chief committee clerk.....	15.00
Norma Dalton, committee clerk.....	14.00
Marian Ehli, committee clerk.....	14.00
Mrs. Mildred Gilderhus, committee clerk.....	14.00
Harriet N. McClelland, committee clerk.....	14.00
Marilyn Rose, committee clerk.....	14.00
Mrs. Joyce R. Rouse, committee clerk.....	14.00
Doris M. Thomas, committee clerk.....	14.00
Cora Jean Kleppe, enroll. and engr. clk.....	14.00
John H. Formo, ass't enroll. and engr. clk.....	14.00
Shirley W. Lee, chief page.....	11.00
Donna Carufel, page.....	11.00
Esther McMullen, page.....	11.00
Richard E. Mueller, page.....	11.00
Delano Wawers, page.....	11.00
Enola Eck, proofreader.....	12.00
Maude Grambs, proofreader.....	12.00
G. W. Hektner, msgr. to senate and governor.....	11.00
Ica Saxvik, postmistress.....	10.00
Judy Basaraba, ass't postmistress.....	10.00
Mrs. Louisa Bubel, chart room clerk.....	12.00
Jane Harrison, telephone clerk.....	10.00
Betty Warner, telephone clerk.....	10.00
Bonita M. Mathena, floor clerk.....	11.00
H. G. Leet, floor clerk.....	11.00
Mervin A. Olsen, floor clerk.....	11.00
Douglas Rose, floor clerk.....	11.00
Ernest Schramm, floor clerk.....	11.00
Frank A. Johner, doorkeeper.....	10.00
Frank Lonsbrough, doorkeeper.....	10.00
Anton Nelson, doorkeeper.....	10.00
August Roemmick, doorkeeper.....	10.00
August W. Kollmann, cloak room attendant.....	10.00
Viola DeForrest, mailing room typist.....	10.00
Fred F. Fisher, night watchman.....	10.00
Marion Arenstein, information desk.....	10.00
Ed Haag, chief, mail room clerk.....	13.00
A. S. Brazda, mailing room clerk.....	10.00
D. B. Cook, addressograph machine operator.....	10.00
George Johner, mailing room clerk.....	10.00

H. P. Johnson, mailing room clerk.....	10.00
F. Lundeby, mailing room clerk.....	10.00
Thorarin Bjorn Snowfield, mailing room clerk.....	10.00
Wilhelm Urlacher, mailing room clerk.....	10.00
Frank Wold, mailing room clerk.....	10.00
Vernon E. Bruse, mailing room clerk.....	10.00
Richard Peterson, parking lot attendant.....	14.00

Senate

Howard F. Doherty, secretary of the senate.....	25.00
Dagny Olson, desk reporter.....	25.00
A. E. Bradley, sergeant at arms.....	12.00
Arthur Herk, ass't secretary of the senate.....	20.00
Rebecca Quanrud, chief steno. and payroll clerk....	20.00
Celia Fowler, telephone attendant.....	12.00
Helen Eckmann, ass't telephone attend. and bill book attendant.....	11.00
J. Vernon Asheim, bill clerk.....	17.00
Iver Kval, parking lot attendant	14.00
E. Wilson Willoughby, cloakroom attendant.....	10.00
Effie Hamry, postmistress.....	12.00
Arvid Kjos, chief doorkeeper.....	12.00
Jacob Albrecht, doorkeeper.....	10.00
Edwin P. Thompson, doorkeeper.....	10.00
Martin Kilwein, bill room attendant.....	10.00
William S. Brown, page and bill book attendant.....	11.00
William A. Campbell, supervisor of personnel and page	18.00
Edna Mae Bohe, page and bill book attendant.....	11.00
Cory Russell, page and bill book attendant.....	11.00
Agnes Ellwein, stenographer.....	14.00
Lois Scherr, stenographer.....	14.00
Shirley Shaw, stenographer.....	14.00
Donna M. Heisler, secretary to the president.....	15.00
G. R. Gilbreath, enrolling and engrossing clerk.....	14.00
Vonny Mushik, enrolling and engrossing clerk.....	14.00
Edna Grace Jones, mail room clerk and bill book attendant	11.00
Miles Nelson, mail room clerk.....	10.00
Robert K. Dahl, mail room clerk.....	10.00
Archie K. Sillers, mail room clerk and bill book attendant	11.00
Lyman Lee, calendar clerk.....	15.00
Myrtle Steen, appropriations committee clerk.....	15.00
Gerald F. Shafer, committee clerk.....	14.00
Constance McQuay, committee clerk.....	14.00
Margaret Stolee, committee clerk.....	14.00
Pearl A. Engen, committee clerk.....	14.00

Ruby O. Herr, committee clerk.....	14.00
Helen M. Ingman, receptionist.....	10.00
Anna Marie Ray, proofreader for the journal.....	12.00
Arndt Erickson, proofreader for the journal.....	12.00
Frank J. Seavert, supply room attendant.....	12.00
Robert G. Ellsworth, msgr. to the governor and the house	11.00
Phillip Henry, bill book attendant.....	11.00
V. J. Melarvie, bill book attendant.....	11.00
Carl Remmich, bill book attendant.....	11.00
G. K. Ness, bill book attendant.....	11.00
Jacob Hoffert, bill book attendant.....	11.00
E. E. Troske, bill room attendant.....	10.00
Sven Haugsjaa, assistant sergeant at arms.....	10.00
Marion I. Walter, floorleaders' clerk.....	14.00
E. O. Hougen, mail room clerk.....	10.00

Filed January 28, 1963.

HOUSE CONCURRENT RESOLUTION "L"

(Christopher, Unke, Halcrow, Goodman, Shablow, Bowles)

PEMBILIER DAM AND RESERVOIR

A concurrent resolution endorsing and supporting the construction of the proposed Pembilier dam and reservoir project and commending the agencies participating in its investigation and planning.

WHEREAS, the proposed Pembilier dam and reservoir on the Pembina River, near Walhalla, North Dakota, is progressing to the point where a report thereon by the investigating agencies of both Canada and the United States can be expected before another session of the Legislature; and

WHEREAS, the surveys, investigations and studies so far made all indicate economic feasibility, that the construction thereof would insure control of flooding on the Pembina River, adequate municipal and industrial water supplies for several communities in both countries, also supplemental water for potential irrigable areas, and for other beneficial purposes; and

WHEREAS, the International Joint Commission has devoted much time and study to this proposal and has individually and collectively toured the Pembina River basin and inspected the various sites and areas involved in the proposed project;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That the Thirty-eighth Legislative Assembly of the state of North Dakota hereby reaffirms its wholehearted endorsement and support of the Pembilier dam and reservoir project aforesaid, commends the International Joint Commission and all the agencies of both Canada and the United States participating in the important investigative and planning activities for their faithful and conscientious devotion to their task and trusts that the definite report thereon will become available sometime during the next fiscal year; and

Be It Further Resolved, that copies hereof be transmitted by the secretary of state to the President of the United States; Secretary of the Department of State; President of the U.S. Senate; Chief of Engineers, U.S. Army Corps of Engineers; District Engineer, St. Paul Office of U.S. Army Corps of Engineers; Commissioner, Bureau of Reclamation; Chairmen of the Canadian and United States Sections, International Joint Commission; members of the North Dakota delegation in Congress; and the Governor of North Dakota.

Filed March 12, 1963.

HOUSE CONCURRENT RESOLUTION "N"
(Link, Halcrow)

MINNESOTA GRAIN INSPECTION LAWS

A concurrent resolution urging the legislature of the state of Minnesota to amend certain laws regarding compulsory inspection of North Dakota-graded grain before warehousing in Minnesota public terminal warehouses.

WHEREAS, the state of Minnesota has laws enacted which make it mandatory for grain to be inspected and graded by state of Minnesota grain inspectors if such grain is received in a Minnesota public terminal warehouse; and

WHEREAS, North Dakota has federally licensed grain inspectors who inspect and grade grain which now must receive under Minnesota law another inspection upon being received at a Minnesota public terminal warehouse; and

WHEREAS, both North Dakota and Minnesota grain inspectors are federally licensed and federally controlled, and all federally licensed inspectors have equal powers; and

WHEREAS, the right of appeal of grade is available on all grains graded by a federally licensed grader; and

WHEREAS, the law requiring grain which is received in public terminal warehouses in Minnesota from North Dakota

to have another inspection is an additional burden upon interstate commerce; and

WHEREAS, the grain producers and shippers of the state of North Dakota may pay duplicate inspection fees for grain grading on grain shipped to a Minnesota public terminal warehouse;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That the legislative assembly of the state of North Dakota hereby respectfully requests the legislature of the state of Minnesota to amend its laws to provide for the waiving of the mandatory inspection of grain to be warehoused in licensed Minnesota warehouses if such grain has been grown and federally inspected in North Dakota.

Be It Further Resolved, that the secretary of state forward copies of this resolution to the governor, the president of the senate, and the speaker of the house of representatives of the state of Minnesota.

Filed March 3, 1963.

HOUSE CONCURRENT RESOLUTION "O"
(Link, Halcrow)

GRAIN INSPECTION POINT

A concurrent resolution urging the Interstate Commerce Commission, the Great Northern Railroad, and the Northern Pacific Railroad to establish and designate an official inspection point for the grading of grain in the Fargo, North Dakota area.

WHEREAS, the state of North Dakota has an agricultural economy which is based upon the production and sale of small grains which are federally inspected and graded in order to be sold in interstate commerce; and

WHEREAS, the greater percentage of grain grown in North Dakota finds its way into interstate commerce for sale, and it is financially beneficial to the people of the state of North Dakota to have this grain inspected and graded before it leaves the state; and

WHEREAS, a hold point established in the Fargo, North Dakota area, would tend to create a grain market in this area, stimulate competition, result in higher prices to the North Dakota farmer, and aid in the growth of the grain processing industry in the state of North Dakota; and

WHEREAS, the earliest point of grading provides the greatest market sensitivity;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That the Interstate Commerce Commission reconsider its prior ruling and establish and designate an official inspection point for the grading of grain in the Fargo, North Dakota area; and

Be It Further Resolved, that the Great Northern Railroad and the Northern Pacific Railroad, under the corporate powers of both railroads, designate a hold point for the inspection and grading of grain in the Fargo, North Dakota area; and

Be It Further Resolved, that copies of this resolution be forwarded by the secretary of state to:

Mr. Rupert L. Murphy, Chairman
Interstate Commerce Commission
12th Street and Constitution Avenue Northwest
Washington 25, D. C.

Mr. R. S. Macfarlane, President
Northern Pacific Railway Company
176 East 5th Street
St. Paul 1, Minnesota

Mr. J. M. Budd, President
Great Northern Railway Company
175 East 4th Street
St. Paul 1, Minnesota

Filed March 16, 1963.

HOUSE CONCURRENT RESOLUTION "P"
(Solberg, Haugland)

APPRECIATION TO PROVINCE OF MANITOBA

A concurrent resolution expressing the appreciation of the people of North Dakota to the Canadian Province of Manitoba for commemorating the centennial of the Dakota Territory.

WHEREAS, during the year 1961 North Dakota celebrated the centennial of the Dakota Territory; and

WHEREAS, on June 17, 1961, in recognition of the good will and continuing friendship between two neighbors and two nations, the Manitoba Legislature acted as host to the North

Dakota Legislative Assembly at ceremonies at the International Peace Garden in commemoration of the Dakota Territory Centennial;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That on behalf of the people of North Dakota, the Thirty-eighth Legislative Assembly expresses its deepest appreciation to the Legislature of the Province of Manitoba, the Honourable Duff Roblin, Premier of the Province of Manitoba, and the people of Manitoba and restates its most sincere desire to perpetuate such good will and continuing friendship between the two neighbors and two nations.

Be It Further Resolved, that copies of this resolution be forwarded to the Honourable Duff Roblin, Premier of the Province of Manitoba, and the Legislature of the Province of Manitoba.

Filed March 1, 1963.

HOUSE CONCURRENT RESOLUTION "Q"

(Hauf, Anderson (McHenry), Miller, Tescher, Lundene, Haugland)
(Baldwin, Fossum, Giffey, Johnson, Lowe, Backes, Solberg)

DEAF SCHOOL CURRICULUM

A concurrent resolution urging the state school for the deaf to accelerate efforts to extend and develop its curriculum of teaching and developing oral skills of communication.

WHEREAS, the North Dakota school for the deaf has a past history of providing excellent educational programs for North Dakota's deaf and mute citizens; and

WHEREAS, the program at the school may not now be meeting the needs of deaf children in the state in that the method of oral speech and lipreading is not used throughout the entire school or for all students who are capable of learning lipreading and oral speech if given reasonable opportunities; and

WHEREAS, the cost to parents in sending their children to schools outside of the state may total between \$2,200.00 and \$3,200.00 per child, which appears unfair to such parents when compared to the costs to parents who send their children to the state school for the deaf where free board, room, clothing, and other services can be provided; and

WHEREAS, teachers trained in the latest methods of teaching deaf, hard of hearing, and mute persons are available in greater numbers now than at any other time;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That the Thirty-eighth Legislative Assembly directs the board of administration and the superintendent of the North Dakota school for the deaf to continue to accelerate the oral speech and lipreading methods throughout the entire school in order that all students who are capable of lipreading and oral speech be given every possible opportunity of learning such techniques in order that such students may lead a fuller and more productive life; and

Be It Further Resolved, that the secretary of state of North Dakota is hereby directed to mail a copy of this resolution to the state board of administration, and that the superintendent of the North Dakota School of the deaf report to the Thirty-ninth Legislative Assembly as to the progress made in implementing methods of oral speech and lipreading throughout the entire school.

Filed March 14, 1963.

HOUSE CONCURRENT RESOLUTION "R"
(Ettestad, Anderson (McHenry), Boutilier)

FLOOD PROTECTION FOR THE CITY OF VELVA

A concurrent resolution urging completion of studies and subsequent construction of flood protective works in the vicinity of Velva, North Dakota.

WHEREAS, torrential rains in the vicinity of the City of Velva, North Dakota on the 9th day of August, 1962 created an enormous quantity of water which flooded that city causing the drowning of three persons, great human suffering, and property damage approximating \$800,000; and

WHEREAS, the topography of the area in which the City of Velva is located is of such nature that water resulting from snow melt and heavy rainfall in the upper escarpment has on several occasions caused flooding and immense damage in that city; and

WHEREAS, flood protection is needed at the earliest possible date to prevent recurrence of such flooding; and

WHEREAS, the Corps of Engineers is currently studying emergency flood protective works needed to protect that city from the various sources of floods which recur in that area;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That the Corps of Engineers, St. Paul District Office, is earnestly urged to complete such emergency flood protection study at the earliest possible date and forward a favorable report thereon to the Chief Engineer, Corps of Engineers, Washington, D. C. in order that he may consider, approve and authorize immediate measures for flood protective works for the city of Velva pursuant to authority granted the Corps of Engineers under section 205 Public Law 87-874; and

Be It Further Resolved, that copies of this resolution be forwarded to the Chief Engineer, Corps of Engineers, Washington, D.C.; Corps of Engineers, St. Paul District Office; to Senators Milton R. Young and Quentin N. Burdick and Representatives Don L. Short and Hjalmar Nygaard; and Governor William L. Guy.

Filed March 12, 1963.

HOUSE CONCURRENT RESOLUTION "S"

(Aamoth)

LRC STUDY OF WELFARE LAWS

A concurrent resolution authorizing and directing the legislative research committee to study welfare programs and consider participation requirements in the welfare laws of our state.

WHEREAS, participation in welfare programs has been the subject of local and national criticism, especially as to eligibility requirements, policies, and budget standards, and the enforcement thereof; and

WHEREAS, no legislative review has been made of North Dakota welfare programs for many years to determine if local and national criticism might be justified or valid in North Dakota;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That the legislative research committee is directed to study North Dakota welfare laws, policies, and programs, and their administration and enforcement, with a special emphasis as to

the need of medical advisory committees, sources of income, expenses, eligibility requirements, and policy and budget standards, and to make its report and recommendations to the Thirty-ninth Legislative Assembly for any improvements in the substantive or procedural laws of North Dakota, together with such legislation as may be necessary to carry out such recommendations; and

Be It Further Resolved, that the legislative research committee is authorized to call upon the public welfare board and any other offices, departments, or agencies of the state or of any of its political subdivisions for any aid, information, and assistance deemed necessary to carry out such study.

Filed March 16, 1963.

HOUSE CONCURRENT RESOLUTION "U"

(Brown, Streibel, Christopher, Schnell, Menz, Davis (Dunn))
(Aamoth, Mueller)

STATEHOOD ANNIVERSARY COMMITTEE

A concurrent resolution authorizing the appointment of a joint legislative interim committee, supplemented by a citizens' committee, to make suitable arrangements for the commemoration of the seventy-fifth anniversary of North Dakota statehood.

WHEREAS, the great and sovereign state of North Dakota will be celebrating its seventy-fifth anniversary of statehood on October 1, 1964; and

WHEREAS, it is desirable and appropriate that the year 1964 be marked with appropriate activities to observe the significant events in the history of the state of North Dakota, the outstanding contributions of its citizens, and to bring the rich historical heritage of the state to the attention of its citizens;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That the speaker of the house appoint three members from the house of representatives and that the president of the senate appoint two members from the senate to serve as a joint interim committee, and that they name a citizens' committee to assist them in the formulating and executing of plans to appropriately observe this anniversary; that such legislative and citizens' committee meet and elect from its members a chairman, vice chairman, and secretary; appoint such subcommittees as it shall deem desirable from its own membership,

or otherwise; and adopt such rules and regulations as it deems appropriate to govern its activities in carrying out its responsibilities hereunder;

Be It Further Resolved, that such joint legislative and citizens' committee shall enlist the aid of all state departments, civic, patriotic, educational, fraternal, professional and religious bodies, and organizations in carrying on such observance; and

Be It Further Resolved, that such committee make a report to the Thirty-ninth Legislative Assembly for proper recognition of its accomplishments.

Filed March 1, 1963.

HOUSE CONCURRENT RESOLUTION "X"
(Hertz, Kitzmann, Gietzen)

EROSION CONTROL AND BANK STABILIZATION
MISSOURI RIVER, NORTH DAKOTA

A concurrent resolution urging early completion of spot bank stabilization and erosion control adjacent to the Missouri River.

WHEREAS, the Garrison Reservoir was constructed to provide, and has provided, substantial benefits to the entire Missouri River Basin for municipal and industrial water supplies, sewage dilution, flood control, navigation, irrigation, power generation and other beneficial uses; and

WHEREAS, that reach of the Missouri River between the Garrison Reservoir and the Oahe Reservoir constitutes an unprotected portion of the river extremely vulnerable to erosion from erratic water releases; and

WHEREAS, since the construction of the Garrison Dam, without supplementary erosion control or bank stabilization structures, the clear water being released from the Garrison Reservoir is eroding approximately 500 acres yearly of valuable bottom land from the banks of this stream; and

WHEREAS, future releases will increase the loss to 800 acres or more annually; and

WHEREAS, specific areas constituting several thousand acres of land are threatened by erosion should the erratic pattern of water releases from Garrison Reservoir be continued; and

WHEREAS, the problem appears to be the responsibility of the Corps of Engineers;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That the United States Congress is respectfully urged to direct the Corps of Engineers to forthwith undertake emergency measures to prevent this impending irreparable loss through construction of spot revetment works between the Garrison and Oahe Reservoirs in consultation with the North Dakota state water conservation commission so corrective stabilization will be applied to the areas imperiled; and

Be It Further Resolved, that sufficient copies of this resolution be forwarded by the secretary of state to each member of the North Dakota congressional delegation for their own use and for appropriate distribution to congressional committees, officials, representatives and senators.

Filed March 12, 1963.

HOUSE CONCURRENT RESOLUTION "A-1"

(Miller, Neukircher, Collette, Tescher)

LRC STUDY OF CORRESPONDENCE DIVISION

A concurrent resolution directing the legislative research committee to study the most efficient method of carrying on high school correspondence and extension courses.

WHEREAS, one of the principal reasons for establishing North Dakota's high school correspondence study division was to supplement the curriculum of those high schools which were unable to offer the necessary basic courses of study; and

WHEREAS, as a result of the reorganization and consolidation of the state's high schools and new curriculum standards prescribed by the state the number of schools unable to offer a full and varied curriculum has substantially declined and will continue to decline; and

WHEREAS, the state's institutions of higher education offer extension courses which may overlap or duplicate the courses of study offered by the high school correspondence study division;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That the legislative research committee is hereby directed to conduct a study of the economic feasibility and the desirability of operating the high school correspondence study

division at its present level and range, of decreasing its curriculum, of coordinating its curriculum with that offered by the state institutions of higher education or transferring full responsibility for correspondence study to such institutions, or of making any other changes in such program as appear to be in the best interest of the state and its residents desiring a high school education; and to report its findings and recommendations to the Thirty-ninth Legislative Assembly in the form of any legislation necessary to carry out such recommendations.

Be It Further Resolved, that the legislative research committee shall be authorized to call upon the high school correspondence study division, the department of public instruction, the board of higher education, any state institution of higher education, and any office, department, or agency of the state for such aid and assistance as it deems necessary.

Filed March 18, 1963.

HOUSE CONCURRENT RESOLUTION "E-1"

(Hauf, Anderson (McHenry), Backes, Giffey, Ettestad, Bergman)
(Wilkie, Poling, Leahy)

LRC STUDY OF PERSONAL PROPERTY TAX

A concurrent resolution directing the legislative research committee to study the feasibility of substituting a sales tax or other taxes for personal property taxes and thereby eliminating personal property taxes in North Dakota.

WHEREAS, all personal property within the state is not subject to a uniform rate of assessment for taxation purposes, thereby creating inequities among taxpayers; and

WHEREAS, there is a tendency to refrain from purchasing certain expensive items subject to the personal property tax because of the annual tax assessed against such property, thereby affecting the economy of the state; and

WHEREAS, the ownership of personal property does not necessarily indicate an ability on the part of the owner to pay taxes; and

WHEREAS, there is growing pressure for an increase in sales taxes for various governmental purposes but the most equitable use of any increased revenue from this broad base tax would result from the substitution of such tax revenue for the personal property tax revenue in order to give tax relief to the general citizens of the state; and

WHEREAS, under the present system of assessment it is nearly impossible to properly assess personal property;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That the legislative research committee is hereby directed to study the feasibility of increasing the state sales tax, broadening its base, or imposing other forms of taxation to the extent whereby personal property may be exempted from taxation in North Dakota. Such study shall include methods of returning to the political subdivisions the money received from such substitute taxes in lieu of the tax money lost to such political subdivisions from the exemption of personal property from taxation. The committee shall make its report and recommendations to the Thirty-ninth Legislative Assembly, together with such legislation or proposed constitutional amendments as may be necessary to carry out such recommendations.

Filed March 18, 1963.

HOUSE CONCURRENT RESOLUTION "H-1"

(Mueller, Davis (Dickey), Dornacker, Streibel, Breum, Knudsen)
(Nygaard, Dick, Tough, Bier, Gackle, Schaffer, Lindberg)
(Lowe, Wastvedt, Goebel, Welder)

POLICY RE ELLENDALE

A concurrent resolution expressing the public policy of the state to maintain a permanent institution of higher learning at Ellendale.

WHEREAS, in accordance with the Constitution of the state of North Dakota, the legislative assembly has established and maintained a state teachers' college at Ellendale, North Dakota; and

WHEREAS, such college has developed an excellent faculty, a strong industrial arts department, and has recently been provided with new physical facilities and equipment, representing a substantial investment and assets of the state of North Dakota that should be utilized in meeting the pressing needs of the state in higher education; and

WHEREAS, in spite of continuous discussions among citizens of the state, governmental agencies and even the legislative assembly in regard to the possibilities of the discontinuance of such institution, the school has experienced a moderate growth in enrollment; and

WHEREAS, it appears that the uncertainty in regard to the continuance of the school has in itself been the principal reason why the school has not been completely utilized by students seeking higher education; and

WHEREAS, if such uncertainty were clearly and unequivocally removed, it is probable that increased enrollments would permit the maximum utilization of the college;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That the legislative assembly does hereby declare its policy to permanently maintain an institution of higher learning at Ellendale, and all citizens and public agencies are urged to support the continued improvement of such college in order to encourage maximum utilization of its facilities.

Filed March 14, 1963.

HOUSE CONCURRENT RESOLUTION "I-1"
(Anderson (McHenry), Christensen (McLean))

AUTOMATIC DATA PROCESSING

A concurrent resolution urging all state departments to make maximum possible use of existing automatic data processing facilities available in the office of the motor vehicle registrar.

WHEREAS, the value of automatic data processing equipment in speedily and efficiently accomplishing a wide variety of tasks is today well known; and

WHEREAS, the cost of such equipment is high, and the economics of operation require maximum utilization in order to get the most service per dollar spent; and

WHEREAS, a number of departments within state government have shown a need for the services of such type equipment; and

WHEREAS, duplication of facilities and equipment between departments for reasons of convenience alone should not be permitted;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That all departments of state government, including but not limited to the tax department, highway department, department of public instruction, and welfare department, are

hereby urged to avoid duplication of facilities in the field of automatic data processing, and to make the maximum possible use of facilities available within the office of the motor vehicle registrar.

Filed March 1, 1963.

HOUSE CONCURRENT RESOLUTION "N-1"

(Solberg, Haugland, Wilkie, Hofstrand, Vinje, Berg, Fitch)
(Backes, Anderson (McHenry), Hoffner)

PEACE GARDEN CEMETERY

A concurrent resolution urging the United States Congress to establish a national cemetery adjacent to and in conjunction with the International Peace Garden.

WHEREAS, the state of North Dakota proudly claims 72,000 veterans who represent 11.4 percent of this state's total population; and

WHEREAS, a deceased veteran who has indicated a desire to be buried in a national cemetery must now be buried in a state other than North Dakota; and

WHEREAS, there now exists in North Dakota an International Peace Garden which is maintained 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; and

WHEREAS, a national cemetery is a memorial to those men who were called upon to serve so that that same peace and good will might be spread throughout the world and it is therefore only fitting and proper that a national cemetery be established adjacent to and in conjunction with the International Peace Garden;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That the United States Congress be urged to establish a national cemetery in the state of North Dakota adjacent to and in conjunction with the now existing International Peace Garden; and

Be It Further Resolved, that a copy of this resolution be forwarded by the secretary of the senate to each member of the North Dakota congressional delegation.

Filed March 11, 1963.

HOUSE CONCURRENT RESOLUTION "O-1"
(Shablow, Glaspey, Bowles, Olsen, Goodman, Christopher)

WHEAT IMPORT DUTIES

A concurrent resolution urging that the United States Secretary of Agriculture, Secretary of State, and National Congress apply regular import duty rates to wheat classified as "unfit for human consumption".

WHEREAS, total imports of wheat unfit for human consumption are increasing annually with approximately seven million bushels of such wheat, consisting largely of seed wheat, being imported within the past two years in the one customs district consisting of North Dakota and part of Minnesota; and

WHEREAS, annual imports of screenings, scalpings, chaff, or scourings of wheat or other grains including oil seed grains approximate one hundred and fifteen thousand tons or more; and

WHEREAS, such abnormal importations of wheat, over and above the established import quotas, is extremely harmful to the economy of North Dakota, Minnesota and South Dakota hard red spring wheat farmers and United States wheat farmers generally; and

WHEREAS, wheat and other grain screenings contain a very high percentage of weed seeds and are a source of further dissemination of weed seeds in North Dakota and the United States; and

WHEREAS, this commodity is presently in surplus and is supported in price and storage costs by the United States taxpayers; and

WHEREAS, this so-called classification of the commodity "Wheat Unfit for Human Consumption" is being imported at less than one-half the regular duty rate of twenty-one cents per bushel;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That the United States Secretary of Agriculture, Secretary of State and National Congress are hereby urged to take all possible action in raising the import duty rates on such wheat to a rate equal to the regular import duty rate upon wheat of twenty-one cents per bushel;

Be It Further Resolved, that copies of this resolution be forwarded to the United States Secretary of Agriculture, Secretary of State, Chairmen of the United States Senate and House Agriculture Committees, and the North Dakota, Minnesota and South Dakota congressional delegations.

Filed March 11, 1963.

HOUSE CONCURRENT RESOLUTION "P-1"

(Miller, Currie, Bowles, Shablow)

EUROPEAN TARIFF STRUCTURE

A concurrent resolution urging the United States Congress to direct the conduct of negotiations designed to create a more favorable tariff structure for agricultural products between the United States and the member nations of the European Economic Community.

WHEREAS, the nations comprising the European Economic Community have been the principal dollar market for United States agricultural production; and

WHEREAS, while the original purpose of the European Economic Community was to free member nations from burdensome tariff barriers, there are presently being proposed high tariff levies which threaten to greatly curtail European imports of American agricultural products, mainly wheat; and

WHEREAS, climatic and soil conditions in the United States are far superior to those of Europe for the production of wheat; and

WHEREAS, the attitude of the United States toward the negotiation of a more favorable tariff structure for American agricultural products has thus far been one of apathy;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That the attention of the United States Congress is hereby directed to the urgent need for prompt action to initiate, implement, and direct negotiations for a reasonable and favorable tariff structure which will insure access for American agricultural products, notably wheat, to the member nations of the European Economic Community;

Be It Further Resolved, that copies of this resolution be forwarded to the chairmen of the United States senate and house foreign commerce committees and to each member of th North Dakota congressional delegation.

Filed March 11, 1963.

HOUSE CONCURRENT RESOLUTION "Q-1"
(Gackle)

INVESTIGATION OF STATE DEPARTMENT

A concurrent resolution requesting Congress to investigate and study the policy-making procedures, methods of assessing foreign developments, and personnel practices of the United States Department of State.

WHEREAS, all Americans are disturbed about conflicting reports and contradictory policies emanating from the State Department of the United States in these times of recurring crisis;

WHEREAS, the United States House of Representatives has before it for consideration House Resolution Number 104 authorizing and directing their Committee on Foreign Affairs to conduct a full and complete investigation and study of the policy-making procedures, methods of assessing foreign developments and the personnel practices of the Department of State.

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That the 38th Session of the Legislature of the state of North Dakota respectfully requests the 88th Congress of the United States, to authorize its House Foreign Affairs Committee to conduct an investigation and study the policy-making procedures, methods of assessing foreign developments, and personnel practices of the United States Department of State.

Be It Further Resolved, that the secretary of state forward copies of this resolution to our congressional delegation, and to the chairman of the House of Representatives Rules Committee.

Filed March 5, 1963.

HOUSE CONCURRENT RESOLUTION "R-1"

(Delayed Bills Committee)
(Currie, Schnell, Bier)

INVESTIGATION OF FREIGHT RATES

A concurrent resolution requesting the Congress of the United States to direct the Interstate Commerce Commission to investigate the carload freight rates applicable to small grains and to prescribe such rates, charges, rules, and regulations as it shall find reasonable and otherwise lawful in the premises.

WHEREAS, North Dakota's economy is dependent to a large extent upon the production and sale of agricultural products, particularly wheat and other small grains; and

WHEREAS, the bulk of all small grains produced in North Dakota enter interstate commerce via the state's network of railway systems in order to reach markets for sale, processing, or consumption, and compete with similar grains of other states, and of foreign countries; and

WHEREAS, the freight rates and charges prevailing for the transportation of these grains via said railway systems have a definite influence upon the ability of North Dakota's grains to reach markets and places at which these grains are processed and utilized or consumed, and to successfully compete with the grains of other states and of foreign countries; and

WHEREAS, the most recent general investigation by the Interstate Commerce Commission of the freight rates on grains in the West, which included North Dakota, was completed in 1934 pursuant to the Hoch-Smith Resolution (Public Resolution No. 46, 68th Congress, 43 Stat. L., 801) with piecemeal revisions permitted or imposed at various times since 1934; and

WHEREAS, during the intervening years since 1934 there have developed substantial changes in marketing patterns; competitive conditions as between transportation agencies; improvements in transportation facilities and equipment and their operation; the manufacturing and marketing of products of small grains; the manufacture of new and different products; and shifts in population; and

WHEREAS, the present freight rate structure does not reflect the present day needs of the producer particularly, but also other interests marketing and processing small grains in the light of these changed circumstances and conditions, and has thus resulted in numerous unreasonable and unduly prejudicial and preferential rates, and that where there have been piecemeal revisions, they have in numerous instances aggravated existing unlawful situations; and

WHEREAS, this necessitates a reappraisal and a general overhauling of the present freight rate structure on small grains for the purpose of determining the reasonableness and lawfulness otherwise of the present rates, charges, rules, and regulations applicable to their transportation, not only with respect to domestic movements but to export as well;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That the Congress of the United States be requested to direct the Interstate Commerce Commission to enter into an investigation concerning the lawfulness of the freight rates, charges, rules, and regulations pertaining to the transportation of carload shipments of small grains in domestic and export commerce and that it, in so doing, provide reasonable and sufficient appropriations to enable said commission to employ competent and sufficient personnel to proceed with and complete as promptly as possible such an investigation, and prescribe as a result thereof, a reasonable adjustment of rates, charges, rules, and regulations free from undue preference, prejudice, and discrimination which it shall find justified in the premises; and

Be It Further Resolved, that copies of this resolution be forwarded to the Committee on Commerce of the Senate of the United States, the Committee on Interstate and Foreign Commerce of the House of Representatives of the United States, and to each member of our North Dakota congressional delegation.

Filed March 12, 1963.

HOUSE CONCURRENT RESOLUTION "S-1"

(Currie, Kelly, Wilkie, Glaspey, Nygaard, Erickson, Belquist)
 (Overbo, Davis (Dickey), Bier, Weber, Aamoth, Reimers)
 (Stallman, Meyer)

WHEAT FREIGHT RATES

A concurrent resolution urging the Great Northern and Northern Pacific Railroads to establish a seventy cent rate per one hundred pounds upon North Dakota wheat shipped to west coast ports for export overseas.

WHEREAS, the Northern Pacific and Great Northern Railroads have turned down the request of the North Dakota Wheat Commission, Public Service Commission, Governor,

Economic Development Commission, farm organizations, and other interested parties for a lowered freight rate on wheat shipped west for export from North Dakota; and

WHEREAS, such rate is needed for North Dakota to compete with comparable areas to the south which already have such a rate and are almost equal distances from the coast; and

WHEREAS, North Dakota produces high quality wheat which is adequate to supply all of our Minnesota and eastern markets as well as to supply our markets to the west; and

WHEREAS, under the 1964 Wheat Law the acreage of wheat in short supply can be increased which makes the reduced rate even more desirable as it would tend to expand production of our high quality wheat if our stock of high quality spring wheat is depleted; and

WHEREAS, North Dakota now pays a rate per one hundred pounds ranging from one dollar and eleven cents at Williston to one dollar and thirty-four cents at Minot and Bismarck and points east thereof in North Dakota and which one dollar and thirty-four cent rate also applies from the Twin Cities and Duluth to North Pacific Coast Ports of which Portland, Oregon and Seattle, Washington, are typical, on wheat moving for export through these ports; and

WHEREAS, this creates an unduly prejudicial and unreasonable competitive circumstance for our producers and shippers of grain in their attempt to export wheat in competition with Canada and winter wheat producing areas to the south, enjoying substantially lower rates;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That the Great Northern and Northern Pacific Railroads establish a seventy cent per one hundred weight freight rate on North Dakota wheat shipped west for export, and thereby insure that the North Dakota producers and shippers may hold and expand the markets for our high quality wheat; and

Be It Further Resolved, that copies of this resolution be forwarded to the chairmen of the United States Senate and House Interstate and Foreign Commerce Committees, each member of the North Dakota congressional delegation, the chairman of the Interstate Commerce Commission, and the presidents of the Great Northern and Northern Pacific Railroads.

Filed March 11, 1963.

HOUSE CONCURRENT RESOLUTION "U-1"

(Delayed Bills Committee)
(Solberg, Haugland, Wastvedt)

CARL BEN EIELSON MEMORIAL

A concurrent resolution naming the airfield to be constructed at the International Peace Garden "Carl Ben Eielson Airfield".

WHEREAS, Carl Ben Eielson was a native of the state of North Dakota; and

WHEREAS, Carl Ben Eielson became world renowned for his pioneer exploits in the newly developed field of aviation; and

WHEREAS, Carl Ben Eielson lost his life in the year 1929 while engaged in saving the passengers of an ice-bound ship;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That the proposed airfield at the International Peace Garden shall be, and the same is, hereby named "Carl Ben Eielson Airfield", in honor of the late Carl Ben Eielson.

Filed March 1, 1963.

HOUSE CONCURRENT RESOLUTION "W-1"

(Delayed Bills Committee)
(Lindberg)

LEGISLATIVE JOURNALS

A concurrent resolution providing for the completion of the legislative journals of the house and senate.

WHEREAS, after termination of the Thirty-eighth Legislative Assembly a complete record with index of the senate and house journals must be prepared;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That Mrs. Vesta Gilbreath, of Bismarck, North Dakota, and Gerald L. Stair, chief clerk of the house, are hereby authorized, empowered and employed to compare and index the journals of the Thirty-eighth Legislative Assembly, and the said Mrs. Vesta Gilbreath and Gerald L. Stair, chief clerk of the house, are hereby directed and required at their own cost and expense

to arrange for and procure sufficient assistance to insure that the said work shall be completed within twenty days after the adjournment of the session.

Be It Further Resolved, that for the services of the said Mrs. Vesta Gilbreath and Gerald L. Stair, as above set forth, they shall be paid the sum of seven hundred dollars each, which shall include compensation for an assistant to be selected by each, all to be paid as other legislative expense, and paid when the respective claims are verified by the affidavits of the said Mrs. Vesta Gilbreath and Gerald L. Stair, showing completion of such work.

Filed March 14, 1963.

HOUSE CONCURRENT RESOLUTION "X-1"

(Delayed Bills Committee)
(Lindberg)

COMPILATION OF LEGISLATIVE ACTS

A concurrent resolution providing for the preparation of a compilation of a record of bills introduced in the house of representatives, and the senate, of the state of North Dakota.

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 possible, such record to show what bills have been passed, indefinitely postponed or withdrawn with notation of journal date and page of amendment thereto:

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That such compilation be at once prepared in a pamphlet similar to size to the house and senate journals; that Ruth Smith, desk reporter in the house, and Mrs. Vesta Gilbreath, of Bismarck, North Dakota, be employed to prepare such compilation immediately, and a copy of same be mailed as speedily as possible to each member of the house and senate at the home address thereof;

Be It Further Resolved, that the said Ruth Smith and Mrs. Vesta Gilbreath be and are hereby respectfully retained on this work to be completed as speedily as possible for the sum of two hundred dollars each, and that the mailing of same be charged and paid as legislative expense.

Filed March 14, 1963.

HOUSE CONCURRENT RESOLUTION "Y-1"
(Delayed Bills Committee)

LEGISLATIVE EMPLOYEES

A concurrent resolution providing for the retaining of certain employees of the house of representatives and senate after the legislative session for the purpose of completing legislative work.

WHEREAS, after termination of the Thirty-eighth Legislative Assembly it is necessary to complete and close all legislative work, and

WHEREAS, in order to so complete and close such work it is necessary to retain certain employees.

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That the following employees from the house of representatives of the Thirty-eighth Legislative Assembly be retained after the close of session to complete legislative work:

Gerald L. Stair, chief clerk, be retained six days; Monty C. Burke, assistant chief clerk, four days; Cora Essington, chief stenographer and payroll clerk, three days; Shirley W. Lee, chief page, three days; Enola Eck, proofreader, four days; Esther McMullen, page, three days; Jean Otteson, chief committee clerk, three days; Ica Saxvik, postmistress, two days; Cora Jean Kleppe, enrolling and engrossing clerk, three days; John H. Formo, assistant enrolling and engrossing clerk, three days; Ruth Smith, desk reporter, three days; Ed Haag, chief mailing room clerk, five days; and Wilhelm Urlacher, mailing room clerk, five days.

That the following employees from the senate of the Thirty-eighth Legislative Assembly be retained after the close of session to complete legislative work:

Howard F. Doherty, secretary of the senate, be retained six days; Arthur Herk, assistant secretary of the senate, four days; Rebecca Quanrud, chief stenographer and payroll clerk, three days; Martin Kilwein, mailing room clerk, five days; Robert K. Dahl, mailing room clerk, five days; Mrs. Marie Upham, proofreader, four days; Effie Hamry, postmistress, two days; G. R. Gilbreath, enrolling and engrossing clerk, three days; Vonnie Mushik, enrolling and engrossing clerk, three days; William S. Brown, messenger, three days; William A. Campbell, page, three days; Edna Mae Bohe, page, three days.

Be It Further Resolved, that the above named employees be paid their regular rate of pay as specified as follows: Gerald L. Stair, chief clerk, six days @ twenty-five dollars per day; Monty C. Burke, assistant chief clerk, four days @ eighteen dollars per day; Cora Essington, chief stenographer and payroll clerk, three days @ twenty dollars per day; Shirley W. Lee, chief page, three days @ eleven dollars per day; Enola Eck, proofreader, four days @ twelve dollars per day; Esther McMullen, page, three days @ eleven dollars per day; Jean Otteson, chief committee clerk, three days @ fifteen dollars per day; Ica Saxvik, postmistress, two days @ ten dollars per day; Cora Jean Kleppe, enrolling and engrossing clerk, three days @ fourteen dollars per day; John H. Formo, assistant enrolling and engrossing clerk, three days @ fourteen dollars per day; Ruth Smith, desk reporter, three days, @ twenty-five dollars per day; Ed Haag, chief mailing room clerk, five days @ thirteen dollars per day; Wilhelm Urlacher, mailing room clerk, five days @ ten dollars per day;

Howard F. Doherty, secretary of the senate, six days @ twenty-five dollars per day; Arthur Herk, assistant secretary of the senate, four days @ twenty dollars per day; Rebecca Quanrud, chief stenographer and payroll clerk, three days @ twenty dollars per day; Martin Kilwein, mailing room clerk, five days @ ten dollars per day; Robert K. Dahl, mailing room clerk, five days @ ten dollars per day; Mrs. Marie Upham, proofreader, four days @ twelve dollars per day; Effie Hamry, postmistress, two days @ twelve dollars per day; G. R. Gilbreath, enrolling and engrossing clerk, three days @ fourteen dollars per day; Vonnie Mushik, enrolling and engrossing clerk, three days @ fourteen dollars per day; William S. Brown, messenger, three days @ eleven dollars per day; William A. Campbell, page, three days @ eighteen dollars per day; Edna Mae Bohe, page, three days @ eleven dollars per day; and all of the above expenses are to be paid out of the per diem employees fund of the Thirty-eighth Legislative Assembly and paid when the respective claims are verified by the affidavits of said parties named herein at the completion of said work.

Filed March 14, 1963.

HOUSE CONCURRENT RESOLUTION "Z-1"

(Delayed Bills Committee)
(Halcrow, Link)

APPRECIATION TO VALLEY CITY

A house concurrent resolution of commendation to the board of directors of the Winter Show at Valley City, North Dakota.

WHEREAS, the board of directors, the chamber of commerce and the citizens of Valley City, recently completed an outstanding Winter Show; and

WHEREAS, on March 3, 1963 they performed an outstanding service to the state of North Dakota in the sponsoring of this show; and

WHEREAS, the members of the Thirty-eighth Legislative Assembly were invited and did attend such show;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That the house of representatives and the senate of the Thirty-eighth Legislative Assembly of the state of North Dakota does hereby express its thanks and appreciation to the board of directors, the chamber of commerce and the citizens of Valley City and to all others who furnished numbers for the programs or assisted in any way with the success of this event.

Be It Further Resolved, that properly authenticated copies hereof be mailed by the secretary of state to the board of directors of the Winter Show, the president of the chamber of commerce and the mayor of the city of Valley City, North Dakota.

Filed March 16, 1963.

HOUSE CONCURRENT RESOLUTION "A-2"

(Delayed Bills Committee)

(Burvee, Stallman, Anderson (Richland), Haugen)

SOO LINE PASSENGER SERVICE

A concurrent resolution urging the Interstate Commerce Commission and the Minneapolis, St. Paul, and Sault Ste. Marie Railroad to continue passenger service upon its main line through the center of the state of North Dakota.

WHEREAS, the Soo Line Railroad has, for years, served as a vital link in North Dakota's railway transportation system; and

WHEREAS, the main line of such railroad extends through the heart of the state, a distance of nearly 400 miles, serving numerous small and medium-sized communities, the great majority of which have no other means of common carrier service; and

WHEREAS, the discontinuance of passenger service upon the main line of such railroad would represent a genuine economic hardship upon a great number of people in various parts of the state of North Dakota;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That the Interstate Commerce Commission and the Minneapolis, St. Paul, and Sault Ste. Marie Railroad are hereby respectfully urged to make every possible effort to continue passenger service as currently provided upon the main line of the Soo Line Railroad in order that the economic needs of the people of the state of North Dakota may continue to be properly served; and

Be It Further Resolved, that copies of this resolution be forwarded to the chairman of the Interstate Commerce Commission and the president of the Minneapolis, St. Paul, and Sault Ste. Marie Railroad.

Filed March 18, 1963.

HOUSE CONCURRENT RESOLUTION "B-2"
(Halcrow, Link)

APPRECIATION TO COWBOY HALL OF FAME

A concurrent resolution expressing appreciation for the recognition of North Dakota by the National Cowboy Hall of Fame.

WHEREAS, the National Cowboy Hall of Fame will present its awards for the year in its Western Heritage Awards Competition on April 4, 1963, at Oklahoma City, Oklahoma; and

WHEREAS, North Dakota has this year been selected to receive the salute of the National Cowboy Hall of Fame at such ceremonies; and

WHEREAS, Governor Guy, Representative Ray Schnell and Brooks Keogh, National Trustees and Lawrence Welk with his Champagne Music will represent North Dakota at the awards ceremonies; and

WHEREAS, the raising of cattle is a basic industry of North Dakota and the livestock people have contributed much to the history and heritage of our state as well as bringing to our state such outstanding persons as Theodore Roosevelt, Marquis DeMores and others; and

WHEREAS, our own modern-day working cowboys such as Joe Chase, Alvin Nelson, Dean Armstrong, Tom Tescher, Jim Tescher, Pete Fredricks, and Duane Howard continue to bring honor and distinction to themselves and the state of North Dakota as top competitors in national rodeo competition;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That the state of North Dakota expresses its appreciation for its selection to receive the salute of the National Cowboy Hall of Fame at the awards ceremonies for the Western Heritage Awards Competition, and on behalf of its citizens pledges continued interest and support to the National Cowboy Hall of Fame.

Filed March 18, 1963.

HOUSE MEMORIAL RESOLUTIONS

HOUSE MEMORIAL RESOLUTION No. 1

(Link, Halcrow, Belquist)

DON NICOLSON

A memorial resolution in honor of Representative Don Nicolson.

WHEREAS, the Divine Ruler of the Universe in His infinite mercy and wisdom has seen fit to call from his earthly labors our friend and fellow legislator, Don Nicolson, who passed away on February 8, 1963, while serving his fourth consecutive term as representative from the thirty-second district; and

WHEREAS, the memory of Don Nicolson will long remain in our hearts and minds as an efficient and able legislator, a great humanitarian, and one who numbered as his friends all who knew him; and

WHEREAS, his many years of service in Eddy-Foster counties as a merchant, farmer, a leader in his community, and as one of its legislators have won for him a place in the hearts of all that can never be refilled; and

WHEREAS, the passing of Don Nicolson is a great loss, not only to Eddy-Foster counties, but also to the state of North Dakota;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota:

That we express our deepest appreciation for the valuable services in so many ways rendered by our beloved and distinguished citizen, and that we express our heartfelt sympathy to his widow, relatives, and intimate friends;

Be It Further Resolved, that the Representatives Russell Belquist, Robert Reimers, and Thomas Stallman be named to represent the house of representatives at the funeral of Representative Nicolson;

Be It Further Resolved, that this resolution be printed in the journal of the house of representatives and that a properly enrolled copy be forwarded by the chief clerk of the house of representatives to his widow at Carrington, North Dakota;

Be It Further Resolved, that the house of representatives do now stand at ease in his memory subject to the call of the chair.

Filed February 11, 1963.

HOUSE MEMORIAL RESOLUTION No. 2
(Mosal, Dornacker, Solberg)

DECEASED MEMBERS

A memorial resolution for deceased members of the house of representatives of the state of North Dakota.

WHEREAS, since the adjournment of the Thirty-seventh Legislative Assembly, God in His wisdom has seen fit to summon to eternal rest His servants and our former colleagues:

JOSEPH T. ALME, who served in the thirty-sixth and thirty-seventh legislative assemblies, from the thirty-fourth district, died September 26, 1962.

GEORGE R. BERNTSON, who served in the thirty-fourth, thirty-fifth and thirty-sixth legislative assemblies from the third district, died January 28, 1962.

INER F. BREKKE, who served in the thirty-third and thirty-fourth legislative assemblies, from the thirteenth district, died December 12, 1962.

USHER L. BURDICK, who served in the tenth and eleventh legislative assemblies, and who served as Speaker of the House of Representatives during the eleventh legislative assembly, from the eighteenth district, died August 19, 1960.

RICHARD DAY, who served in the twenty-fifth legislative assembly, from the twenty-seventh district, died June 21, 1960.

OLAF DILLAND, who served in the twenty-first and twenty-second legislative assemblies, from the forty-first district, died January 31, 1962.

IVER DROVDAHL, who served in the twenty-seventh, twenty-eighth and twenty-ninth legislative assemblies, from the forty-first district, died December 5, 1962.

CARL ERICKSON, who served in the twenty-sixth and twenty-seventh legislative assemblies, from the forty-fifth district, died December 28, 1961.

JOHN A. ERICKSON, who served in the twenty-third and twenty-fourth legislative assemblies, from the forty-sixth district, died May 29, 1962.

SAMUEL A. ESPELAND, who served in the twenty-third legislative assembly, from the forty-ninth district, died April 12, 1959.

OLE G. FROSAKER, who served in the twenty-fourth and twenty-fifth legislative assemblies, from the twenty-ninth district, died September 26, 1962.

CARL H. GORANSON, who served in the eighteenth legislative assembly, from the twentieth district, died May 27, 1959.

HARRY HARDY, who served in the nineteenth legislative assembly, from the forty-fourth district, died November 1, 1961.

OLOF HILDRE, who served in the twenty-ninth and thirtieth legislative assemblies, from the seventeenth district, died November 18, 1961.

REINHOLD HORNBACHER, who served in the thirty-third and thirty-fourth legislative assemblies, from the thirty-third district, died July 28, 1961.

GOTTLIEB ISAAK, who served in the twenty-first, twenty-second, twenty-third and twenty-fourth legislative assemblies, from the forty-eighth district, died August 25, 1961.

MRS. GEORGE W. (SUSIE JANE) ISTA, who served in the twenty-sixth legislative assembly, from the thirty-seventh district, died January 13, 1963.

CARL O. JOHNSON, who served in the thirtieth legislative assembly, from the sixteenth district, died June 18, 1962.

OLE M. JOHNSON, who served in the nineteenth legislative assembly, from the fourteenth district, died January 27, 1963.

HERMAN JUST, JR., who served in the twenty-fifth legislative assembly, from the thirtieth district, died January 6, 1963.

WILLIAM KAMRATH, who served in the sixteenth, seventeenth, nineteenth and twentieth legislative assemblies, from the forty-seventh district, died June 12, 1961.

EDWARD A. KRAUSE, who served in the twenty-sixth legislative assembly, from the ninth district, died December 15, 1962.

MORRIS L. LARSON, who served in the twenty-seventh, twenty-eighth, twenty-ninth and thirtieth legislative assemblies, from the thirty-third district, died November 15, 1961.

CLARENCE N. LEE, who served in the twentieth and twenty-first legislative assemblies, from the forty-eighth district, died November 5, 1959.

MRS. MABEL LINDGREN MARSHALL, who served in the twenty-first legislative assembly, from the twenty-ninth district, died February 2, 1962.

JOSEPH MCGAUVRAN, who served in the sixteenth, seventeenth, eighteenth, nineteenth, twentieth and twenty-first legislative assemblies from the eighteenth district, died November 28, 1961.

EDWARD J. McILRAITH, who served in the twenty-fourth legislative assembly, from the fortieth district, died September 24, 1962.

F. W. McLEAN, who served in the third legislative assembly, in the year 1893, died June 16, 1961.

LARS K. MORLAND, who served in the twenty-fifth, twenty-sixth, twenty-seventh and twenty-eighth legislative assemblies, from the thirty-ninth district, died December 11, 1962.

ALFRED NELSON, who served in the twenty-seventh and thirty-third legislative assemblies, from the twenty-first district, died August 27, 1962.

STEVEN C. NELSON, who served in the twenty-sixth and twenty-seventh legislative assemblies, from the sixteenth district, died November 8, 1961.

DON NICOLSON, who served in the thirty-fifth, thirty-sixth, thirty-seventh and thirty-eighth legislative assemblies, from the thirty-second district, died February 8, 1963.

DAVID L. PETERS, who served in the seventeenth, eighteenth, nineteenth, twentieth, twenty-first, twenty-second and twenty-third legislative assemblies, from the forty-second district, died April 4, 1962.

WILLIAM M. SCHANTZ, who served in the twenty-fourth legislative assembly, from the twenty-seventh district, died March 7, 1961.

ANTON J. (TONY) SCHMIDT, who served in the twenty-ninth legislative assembly, from the thirty-sixth district, died October 20, 1961.

JOHN A. SCHMIDT, who served in the twenty-sixth legislative assembly, from the thirty-fifth district, died November 27, 1961.

HARRY C. SCHOLL, who served in the thirty-fifth legislative assembly, from the forty-sixth district, died June 30, 1962.

T. E. SCHULER, who served in the thirtieth, thirty-first, thirty-second, thirty-third, thirty-fourth, thirty-fifth, thirty-sixth and thirty-seventh legislative assemblies, from the thirty-sixth district, died February 21, 1962.

NATHANIEL C. (TONY) STARCK, who served in the twenty-seventh, twenty-eighth, thirtieth and thirty-first legislative assemblies, from the thirtieth district, died June 30, 1961.

R. E. SWENDSEID, who served in the twentieth and twenty-first legislative assemblies, from the forty-fourth district, died April 19, 1962.

A. M. THOMPSON, who served in the nineteenth legislative assembly, from the thirteenth district, died September 27, 1961.

SIVERT W. THOMPSON, who served in the twentieth legislative assembly, from the twenty-first district, died October 2, 1962.

AUGUST WAHL, who served in the thirtieth, thirty-first and thirty-second legislative assemblies, from the thirty-third district, died March 23, 1961.

WHEREAS, today we, as members of the house of representatives of the Thirty-eighth Legislative Assembly of the state of North Dakota, pause to mourn the passing of our former colleagues and to honor their memories; and

WHEREAS, these men rendered outstanding service to the people of this state by their contribution to their fellow men and their communities;

Now, Therefore, Be It Resolved by the House of Representatives of the Thirty-Eighth Legislative Assembly of the State of North Dakota:

That we express our keen sorrow on their passing and our appreciation, on behalf of the people of North Dakota, of the loyal and devoted service of these, our former colleagues;

Be It Further Resolved, that for the perpetuation of their memories, this token of respect and sympathy by their successors in trust be printed in the journal of the house and that duly enrolled copies of this resolution be presented by the secretary of state to the surviving families of these deceased representatives.

Filed March 4, 1963.

HOUSE MEMORIAL RESOLUTION No. 4
(Halcrow, Link)

JAMES A. WENSTROM

A memorial resolution extending sympathy and condolence to Lieutenant Governor Frank A. Wenstrom upon the death of his father.

WHEREAS, God in His infinite wisdom has seen fit to summon from our midst Mr. James A. Wenstrom, the father of our colleague, Lieutenant Governor Frank A. Wenstrom; and

WHEREAS, Mr. James A. Wenstrom was one of North Dakota's pioneers and served as a senator from the Thirty-third Legislative District during the fifteenth, sixteenth, 1919 special session, seventeenth and eighteenth sessions; and

WHEREAS, Lieutenant Governor Wenstrom is held in the highest esteem by all members of the legislative assembly, who share with him his great sorrow;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota:

That we express our deep sorrow and extend to Lieutenant Governor Wenstrom and all members of his family our sincere sympathy and condolence in this their time of sorrow; and

Be It Further Resolved, that this resolution be entered in the journal and the secretary of state is hereby directed to present an enrolled copy to Lieutenant Governor Frank A. Wenstrom and members of his family.

Filed March 9, 1963.

SENATE RESOLUTIONS

SENATE RESOLUTION No. 2

(Morgan, Kautzmann, Witteman)

OFFICIAL PHOTOGRAPHER

A senate resolution to appoint an official photographer for the senate of the Thirty-eighth Legislative Assembly of the state of North Dakota.

WHEREAS, for historical purposes it has been the custom of all North Dakota legislative assemblies to have composite group pictures made of all members of such assemblies; and

WHEREAS, Rudrud Studio of Bismarck, North Dakota, offers to make a composite group picture of the members of the 1963 North Dakota senate, size 30 x 40 inches, said picture to be framed and ready to hang, and fifty-five fourteen by eleven copies of said picture for each member and desk force of the senate, and one five by seven inch print of each senator and the lieutenant governor for the state historical society, at a cost of five hundred and forty-nine dollars.

Now, Therefore, Be It Resolved, that Rudrud Studio, Bismarck, North Dakota, be, and is hereby appointed official photographer for the North Dakota senate of the Thirty-eighth Legislative Assembly.

Be It Further Resolved, that the Rudrud Studio of Bismarck, North Dakota, be and is hereby awarded the sole privilege of photographing members of the senate of the Thirty-eighth Legislative Assembly, at a cost price of five hundred forty-nine dollars to be taken out of legislative expenses.

Filed February 5, 1963.

SENATE RESOLUTION No. 3
(Delayed Bills Committee)

HIGHWAY DEPARTMENT INQUIRY

A resolution authorizing the appointment of a committee for the purpose of conferring with representatives of the state highway department and of inquiring into the financial and building requirements of the department and its administrative practices and costs.

WHEREAS, since the legislative assembly does not exercise budgetary control over the state highway department through the appropriation of its funds in the same manner as all other state agencies, legislators do not have adequate information in regard to its financial position, its building needs, its administrative costs and practices, and similar matters; and

WHEREAS, measures are under consideration which would appropriate funds from the state highway department for the operation of the state highway patrol; and

WHEREAS, a bill for the construction of an addition to the state highway department building has been indefinitely postponed; and

WHEREAS, no committee of the legislative assembly has had an opportunity to discuss and review complaints in regard to administrative costs of the highway department;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota:

That the president of the senate be authorized to appoint a committee from the senate of eleven members for the purpose of meeting with representatives of the state highway department on March 2, 1963, for the purpose of inquiring into the affairs of the state highway department, with special reference to the financial position of the department, its building needs, and complaints of excessive administrative costs.

Filed April 2, 1963.

SENATE RESOLUTION No. 6

(Baeverstad, Baker, Beck, Becker, Berube, Bopp, Brooks)
(Chesrown, Dahlund, Erickson, Forkner, Foss, George, Harris)
(Hernett, Holand, Kamrath, Kautzmann, Kee, Kisse, Kjos, Lips)
(Longmire, Luick, Meidinger, Miller, Morgan, Mutch, Nelson)
(Redlin, Reichert, Ringsak, Robinson, Roen, Sanford, Saumur, Sinner)
(Solberg, Sorlie, Strinden, Thompson, Torgerson, Trenbeath, Tuff)
(Van Horn, Wadeson, Wartner, Witteman, Mahoney)

GIFFORD HERRON

A resolution extending best wishes to Mr. Gifford Herron in his time of illness.

WHEREAS, Mr. Gifford Herron of The Fargo Forum has accurately and impartially reported to the people of this state the proceedings of each session since the Thirty-third Legislative Assembly; and

WHEREAS, on January 17, 1963, he was taken seriously ill and has been hospitalized since that date; and

WHEREAS, it has come to the attention of this body that Mr. Herron is well on the road to recovery;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota:

That we express our pleasure that Mr. Herron is recovering his health and we extend our sincerest wishes to him for continued improvement and complete recovery from his illness, and members of this body look forward to his resumption of his duties as a political reporter for the Thirty-ninth Legislative Assembly;

Be It Further Resolved, that this resolution be printed in the senate journal and that the secretary of state is hereby directed to forward an enrolled copy to Mr. Gifford Herron.

Filed March 14, 1963.

SENATE RESOLUTION No. 7
(Longmire, Saumur)

CONGRATULATING UNIVERSITY HOCKEY TEAM

A resolution congratulating the University of North Dakota hockey team and its coach, Barry Thorndycraft, and wishing them the best of luck in the National Collegiate Athletic Association championship tournament.

WHEREAS, the Fighting Sioux of NDU are 1962-63 co-champions of the Western Collegiate Hockey Association; and

WHEREAS, on March 14, 15, and 16, for the third time in the past six years, they shall compete in the National Collegiate Athletic Association championship tournament at Boston, Massachusetts, thereby bringing national recognition to this great state; and

WHEREAS, the people of North Dakota are justifiably proud of its hockey team and confident that it shall become the next National Collegiate Athletic Association hockey champion;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota:

That this body extend its sincerest congratulations to the Fighting Sioux and to coach Barry Thorndycraft and his staff as co-champions of the Western Collegiate Hockey Association and wish them the best of luck in the National Collegiate Athletic Association championship tournament; and

Be It Further Resolved, that this resolution be entered in the senate journal and enrolled copies be forwarded to coach Barry Thorndycraft and the University of North Dakota athletic department.

Filed April 2, 1963.

SENATE CONCURRENT RESOLUTIONS

SENATE CONCURRENT RESOLUTION "B"

(Kee, Trenbeath, Morgan)
(From LRC Study)

LRC WATER CONSERVATION LAW STUDY

A concurrent resolution authorizing and directing the legislative research committee to continue its study of the water conservation laws of the state in order to provide for the greatest possible conservation and utilization of the water resources of the state.

WHEREAS, the Thirty-seventh Legislative Assembly in a concurrent resolution directed the legislative research committee to study and revise the water laws of the state of North Dakota to remove conflicts and ambiguities and ensure their adequacy for the purposes of conservation and maximum utilization of the water resources of the state in the light of changing conditions of modern times; and

WHEREAS, because of the great volume of water laws and the highly complex and technical nature of such laws the legislative research committee's subcommittee on natural resources worked only in those areas that most urgently required study and immediate change; and

WHEREAS, the subcommittee was able to complete its work only in those areas that required immediate study and change and as a result was unable to completely revise all laws needing attention;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the legislative research committee is authorized and directed to continue its study and revision of the water laws of the state of North Dakota to remove conflicts and ambiguities and ensure their adequacy for the purposes of conservation and maximum utilization of the water resources of the state in the light of changing conditions of modern times, and to report its appraisals and recommendations to the Thirty-ninth Legislative Assembly, together with any proposed legislation which may be necessary to carry out such recommendations.

Be It Further Resolved, that the legislative research committee shall be authorized to appoint advisory members and to call upon any agency, board, or commission of the state of North Dakota or its political subdivisions for such research,

aid, and assistance as may be necessary to carry out the water conservation study and to employ such other technical and clerical personnel as may be necessary.

Filed March 15, 1963.

SENATE CONCURRENT RESOLUTION "C"

(Kee, Trenbeath, Morgan)
(From LRC Study)

DISCLAIMER OF WATER RIGHTS

A concurrent resolution requesting Congress to remove an apparent cloud upon and to disclaim any interest on the part of the United States to certain unused waters in North Dakota under a Declaration of Intent issued by the Secretary of Agriculture of the United States.

WHEREAS, the Honorable Henry A. Wallace, as Secretary of Agriculture of the United States, pursuant to section 8270 of the Compiled Laws of North Dakota for the year 1913 (repealed in 1943), notified the then state engineer of North Dakota by letter dated September 1, 1934, that the United States intended from and after that date to utilize certain specified unappropriated waters as of the date thereof, in the state of North Dakota, in said notice described as follows:

"The Mouse River, also known as the Souris River, and all of its tributaries; the Des Lacs River, also known as the Des Lacs Lakes, and all of their tributaries; the James River, including its tributary the Pipestem River, and all tributaries of both such rivers in North Dakota; the Bois des Sioux River, the Sheyenne River, the Forest River, and all other tributaries of the Red River in North Dakota; all tributaries of the Missouri River in North Dakota;"

and

WHEREAS, in consequence thereof the then Bureau of Biological Survey, an agency in the Department of Agriculture, proceeded to and did acquire land in and adjacent to some of the waters named in said notice, and did establish, construct, and develop wildlife refuges and project works related thereto upon and in such lands and waters, and in connection therewith applied to the state for and was granted rights to appropriate and beneficially use specified quantities of water from several of the sources mentioned in said notice; and

WHEREAS, more than twenty years have elapsed since the expiration of the maximum period allowed under said section 8270 and other applicable state water laws within which pro-

ject works commenced thereunder must be completed and the required notice of completion thereof should have been given the state engineer; and

WHEREAS, the hereinafter listed water rights granted the Bureau of Biological Survey or the Federal Fish and Wildlife Service for the appropriation and utilization of water in connection with such wildlife refuges and related project works, as shown by the records in the office of the state engineer, are the only water rights issued to and held by said agencies which are now in effect and recognized by the state as legal and valid; and

WHEREAS, the United States Department of Agriculture, the United States Department of the Interior, and the Federal Fish and Wildlife Service, after repeated requests by the state engineer therefor made, have failed, neglected, and refused to disclaim interest in or to, and thereby remove the seeming cloud upon, the unused waters of the lakes, rivers, and streams specified and described in the said notice of September 1, 1934, which have not attained the status of or ripened into legal and valid water rights for the appropriation and beneficial utilization of water in connection with the completed wildlife refuges and related project works hereinafter listed; and

WHEREAS, the insufficient rainfall and the growing dependence upon surface water for many beneficial purposes in connection with the State's dominant agricultural economy greatly emphasize the importance of erasing and removing the ostensible cloud upon the State's unappropriated public waters as a result of the said Declaration of Intent;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the United States Congress be and it is hereby most respectfully petitioned and requested to remove the apparent cloud upon, by disclaiming any interest on the part of the United States in or to, the unused waters of the lakes, rivers and streams specified and described in the said Declaration of Intent, dated September 1, 1934, except as the same applies to the right to appropriate and beneficially utilize water, in approved quantities, for and in connection with the completed wildlife refuges and project works related thereto, for which specific water rights have been granted, are now in effect and are recognized as legal and valid by the state of North Dakota, and are identified and listed as follows, to wit:

Table 1. Water Appropriations in the Missouri River Basin.

File No.	Name of Refuge	Stream and Tributary to	County	Date of Claim
67	Appert Lake	Creek; Long Lake-Missouri	Emmons	8/30/37
1	Camp Lake	Strawberry Lake; Turtle-Missouri	McLean	8/30/37
73	Canfield Lake	Lake Canfield; Missouri	Burleigh	8/30/37
51	Chase Lake	Chase Lake; Missouri	Stutsman	5/25/38
75	Flickertail	Beaver Creek; Missouri	Emmons	8/30/37
4	Florence Lake	Florence Lake; Missouri	Burleigh	8/30/37
47	Lake George	Lake George; Missouri	Kidder	8/30/37
48	Halfway	Halfway Lake; Missouri	Stutsman	8/30/37
5	Hiddenwood	Hiddenwood Lake; Missouri	McLean-Ward	8/30/37
6	Hutchinson	Hutchinson Lake; Missouri	Kidder	8/30/37
19	Lake Ilo	Spring Creek; Knife-Missouri	Dunn	8/30/37
71	Long Lake	Long Lake Creek; Missouri	Burleigh-Kidder	2/17/37
72	Lost Lake	Painted Woods; Missouri	McLean	8/30/37
8	Lake Nettie	Turtle Lake; Turtle-Missouri	McLean	8/30/37
17	Pretty Rock	Creek; Cannonball, Missouri	Grant	8/30/37
11	McLean (Lake Susie)	Creek; Deep Water, Missouri	McLean	8/30/37
9	Shell Lake	Shell Creek; Missouri	Mountrail	8/30/37
74	Spring Water	Clear Creek; Beaver Creek-Missouri	Emmons	8/30/37
20	Stewart Lake	Deep Creek; Little Missouri-Missouri	Slope	8/30/37
10	Sunburst Lake	Creek; Missouri	Emmons	8/30/37
18	White Lake	Creek; Cannonball-Missouri	Slope	8/30/37
14	Lake Zahl	Little Muddy; Missouri	Williams	8/30/37

Table 2. Water Appropriations in the Mouse-Souris River Basin.

File				Date of Claim
No.	Name of Refuge	Stream and Tributary to	County	
21	Cottonwood	Creek; Wintering-Souris	McHenry	8/30/37
28	Des Lacs	Souris; Red	Ward	8/28/37
22	Lords Lake	Lords Lake; Willow Creek-Souris	Bottineau-Rolette	8/30/37
29	Lower Souris	Souris; Red	Bottineau	8/28/37
24	Rabb Lake	Creek; Willow Creek-Souris	Rolette	8/30/37
25	School Sec. Lake	Creek; Willow Creek-Souris	Rolette	8/30/37
29	Upper Souris	Souris; Red	Ward-Renville	8/28/37
26	Willow Lake	Branch; Willow Creek-Souris	Rolette	8/30/37
27	Wintering Lake	Branch; Wintering-Souris	McHenry	8/30/37

Table 3. Water Appropriations in the Devils Lake Basin.

File				Date of Claim
No.	Name of Refuge	Stream and Tributary to	County	
43	Brumba	Mauvais Coulee; Devils Lake	Towner	5/25/38
42	Lac Aux Mortes	Mauvais Coulee; Devils Lake	Ramsey-Towner	5/25/38
39	Rock Lake	Mauvais Coulee; Devils Lake	Towner	5/25/38
40	Silver Lake	Mauvais Coulee; Devils Lake	Benson	5/25/38
41	Snyder Lake	Mauvais Coulee; Devils Lake	Towner	5/25/38

Table 4. Water Appropriations in the James River Basin.

File				Date of Claim
No.	Name of Refuge	Stream and Tributary to	County	
52	Arrowwood	James and Tributaries; James	Stutsman	8/28/37
54	Bone Hill	Bone Hill; James	LaMoure	8/30/37
53	Dakota Lake	James; James	Dickey	8/30/37
49	Maple River	Maple; James	Dickey	8/30/37

Table 5. Water Appropriations in the Red River Basin.

File No.	Name of Refuge	Stream and Tributary to	County	Date of Claim
55	Ardoch Lake	Forest; Forest-Red	Walsh	8/30/37
60	Lamb's Lake	Creek; Goose-Red	Nelson	8/30/37
61	Little Goose	Little Goose; Goose-Red	Grand Forks	8/30/37
62	Prairie Lake	Creek; Goose-Red	Nelson	8/30/37
30	Buffalo Lake	Creek; Sheyenne-Red	Pierce	8/30/37
31	Hobart Lake	Creek; Sheyenne-Red	Barnes	8/30/37
32	Johnson Lake	Creek; Sheyenne-Red	Eddy-Nelson-Foster	8/30/37
33	Pleasant Lake	Creek; Sheyenne-Red	Benson	8/30/37
34	Rose Lake	Creek; Stump Lake-Sheyenne-Red	Nelson	8/30/37
35	Sheyenne Lake	Sheyenne; Sheyenne-Red	Sheridan	8/30/37
50	Coal Mine Lake	Sheyenne; Sheyenne-Red	Sheridan	1/16/39
36	Sibley Lake	Creek Baldhead; Sheyenne-Red	Griggs	8/30/37
37	Stoney Slough	Stoney; Sheyenne-Red	Barnes	8/30/37
38	Tomahawk	Creek; Sheyenne-Red	Barnes	8/30/37
45	Wood Lake	Wood Lake; Sheyenne-Red	Benson	5/25/38
56	Billings Lake	Creek; Red	Cavalier	8/30/37
59	Kelly's Slough	Creek; Turtle-Red	Grand Forks	8/30/37
63	Storm Lake	Creek; Rice-Red	Sargent	8/30/37
58	Lake Elsie	Creek; Wild Rice-Red	Richland	8/30/37
57	Cloud Lake	Creek; Wild Rice-Red	Sargent	8/30/37
64	White Lake	Wild Rice Creek; Wild Rice-Red	Sargent	8/30/37
65	Wild Rice	Wild Rice; Wild Rice-Red	Sargent	8/30/37

Be It Further Resolved, that copies hereof be transmitted by the secretary of state to the members of the North Dakota delegation in Congress, who are hereby respectfully requested to take such action as may be deemed necessary or appropriate to give effect thereto; and

Be It Further Resolved, that the secretary of state transmit a copy hereof to the Secretary, and Assistant Secretary for Fish and Wildlife, of the United States Department of the Interior.

Filed March 13, 1963.

SENATE CONCURRENT RESOLUTION "D"
(Longmire)

INVITATION TO DR. MENNINGER

A concurrent resolution extending an invitation to Doctor William C. Menninger to address the North Dakota Legislative Assembly on January 15, 1963.

WHEREAS, Doctor William C. Menninger is the Chief of Staff of the Menninger Foundation, Topeka, Kansas, which is recognized as the outstanding psychiatric center in the United States and the world; and

WHEREAS, Doctor William C. Menninger is a renowned author and lecturer in the field of mental health; and

WHEREAS, the Legislative Assembly of the state of North Dakota is very interested in the treatment of mentally ill citizens and in the promotion of the mental health of North Dakota residents;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the North Dakota Legislative Assembly and the people of the state of North Dakota extend to Doctor William C. Menninger an invitation to address the Legislative Assembly on January 15, 1963 at 1:30 p.m.; and

Be It Further Resolved, that the secretary of the senate is hereby directed to send a copy of this resolution to Doctor William C. Menninger.

Filed January 11, 1963.

SENATE CONCURRENT RESOLUTION "E"
(Longmire, Redlin)

NEWSPAPERMAN'S DAY

A concurrent resolution for the purpose of designating January 25, 1963 as Newspaperman's Day at the state legislative assembly and inviting Dr. Charles L. Allen to address the joint meeting of newspapermen and legislators.

WHEREAS, the editors and reporters of North Dakota daily and weekly newspapers are in active partnership with the senators and representatives of this state in the task of keeping the citizens informed about their government; and

WHEREAS, Dr. Charles L. Allen, director of the School of Journalism at Oklahoma State University, who is a former native of North Dakota and the first journalism graduate of the University of North Dakota, will be able to attend a joint meeting of newspapermen and legislators on January 25, 1963;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the senate of the state of North Dakota, and the house of representatives, individually and collectively, invite the newspapermen of their respective districts to spend the day of January 25, 1963 at the state capitol as our guests, to witness at first hand, the legislative process; and

Be It Further Resolved, that we participate in the meeting sponsored by the North Dakota Sigma Delta Chi chapter of professional journalists in the house chambers at 3:00 p.m. that day for a discussion of the duties and responsibilities of both the press and public officials under the constitutional guarantee of freedom of the press; and

Be It Further Resolved, that the senate of the state of North Dakota, and the house of representatives, join in the invitation to Dr. Charles L. Allen, director of the School of Journalism at Oklahoma State University, to address the joint meeting of newspapermen and legislators.

Filed January 15, 1963.

SENATE CONCURRENT RESOLUTION "F"

(Morgan, Dahlund, Roen, Ringsak, Baker, Redlin, Reichert)
(Sanford, Kjos, Torgerson, Sinner, Strinden, Mahoney, Kee)
(Forkner, Kautzmann, Holand, Wadeson, Mutch, Beck, Longmire)
(Erickson, Becker)

CROP SPRAYING REGULATIONS

A concurrent resolution memorializing the Federal Aviation Agency, Washington, D. C. to abolish its proposed Part 55 of the U. S. Civil Air Regulations, which would create burdensome economic controls and regulations, and eliminate many small aerial crop-spraying operations in the state of North Dakota.

WHEREAS, the Federal Aviation Agency has printed in the Federal Register proposed rule making powers termed "Part 55" which would place all agricultural aerial applicators in the United States under federal economic control and regulation; and

WHEREAS, in the year of 1960 in the United States there were 5,100 agricultural aircraft which treated 52,000,000 acres by air, and in North Dakota in 1962 a total of 252 agricultural aircraft licensed by the State Aeronautics Commission, which aerially sprayed 2,000,000 crop acres with satisfaction to the farmer from the viewpoint of quality, service, and competitive pricing; and

WHEREAS, according to the Federal Aviation Agency's official report, the total accidents in aerial application in the United States for each 10,000 hours of flying was lower in 1959 and in 1960 than in general aviation flying during the latest years available; and

WHEREAS, the Federal Aviation Agency has proposed complete economic control over the industry which will have the effect of limiting competition in North Dakota as well as in the United States by federal decree, which is not in the public interest; and

WHEREAS, the federal control as envisioned by the Federal Aviation Agency will completely eliminate many small aerial applicators from business, especially in a one-crop-per-year state, such as North Dakota, and thus downgrade the service to the farmer; and

WHEREAS, the Federal Aviation Agency's economic control and regulation of this industry will increase the basic cost of providing aerial agricultural services, which ultimately must be paid by the farmer and the consumer; and

WHEREAS, in the state of North Dakota the North Dakota Aeronautics Commission has licensed and regulated aerial applicators since 1948 and provided needed educational short courses for increased safety and better understanding of the use of agricultural chemicals, which differ from region to region and do not lend themselves to uniformity on a national scale due to the nature of agriculture; and

WHEREAS, the U. S. Department of Agriculture, through the land grant colleges and universities in each state, has the necessary professional personnel with knowledge of the proper aerial application and use of agricultural chemicals in each state, which the Federal Aviation Agency is in no position to duplicate, and the Congress has not and should not appropriate funds to the Federal Aviation Agency to duplicate functions and duties of the U. S. Department of Agriculture in this field;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the Federal Aviation Agency, Washington, D.C. is hereby memorialized and respectfully petitioned to abolish its proposed Part 55 of the United States Civil Air Regulations, which would create burdensome economic controls and regulations, and would eliminate many small aerial crop-spraying operations in the state of North Dakota, thus reducing valuable services to the farmers, and act to unwarrantedly eliminate competition in a free enterprise system; and

Be It Further Resolved, that copies of this resolution, properly authenticated, be sent by the secretary of state to Najeeb Halaby, Administrator of the Federal Aviation Agency, Washington, D.C.; to the chairmen of the House and Senate Interstate and Foreign Commerce Committees; to the chairmen of the Aviation Subcommittees of the House and Senate of the Congress of the United States; and to each member of the North Dakota congressional delegation.

Filed January 11, 1963.

SENATE CONCURRENT RESOLUTION "H"

(Solberg, Thompson, Morgan, Dahlund, Bopp, George, Van Horn)

DUCK HUNTING REGULATIONS

A concurrent resolution urging the United States Fish and Wildlife Service of the Department of the Interior to establish reasonable regulations in respect to the number and species of ducks that may be shot in North Dakota and also urging the United States to enter into an agreement with Mexico to prevent the wholesale slaughter of ducks in Mexico.

WHEREAS, North Dakota raises and feeds more ducks than any other state, and several times more than are shot by state-licensed hunters; and

WHEREAS, the United States Fish and Wildlife Service of the Department of the Interior has imposed unreasonable restrictions respecting the number and species of ducks that may be taken during the hunting season, such restrictions in effect requiring the hunters to carry a duck identification book and field glasses in one hand and a gun in the other; and

WHEREAS, ducks migrating from Canada, and from North Dakota and other states of the United States, are being slaughtered in wholesale numbers in Mexico due to an absence of restrictions respecting duck hunting and the allowance of commercial duck hunting and trapping;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the United States Fish and Wildlife Service of the Department of the Interior establish reasonable regulations which would allow North Dakota hunters to take a greater number of species and ducks during the forthcoming hunting seasons; and

Be It Further Resolved, that the United States enter into negotiations with Mexico in order to prevent the unreasonable slaughter in Mexico of ducks raised in Canada, and in North Dakota and other states of the United States; and

Be It Further Resolved, that copies of this resolution be forwarded by the secretary of state to the North Dakota state game and fish commissioner, the North Dakota delegation in Congress, and the director of the United States Fish and Wildlife Service of the Department of the Interior at Washington, D.C.

Filed March 12, 1963.

SENATE CONCURRENT RESOLUTION "I"
(Roen, Trenbeath, Redlin)

WATER PROJECT COSTS

A concurrent resolution relating to the provision of assurances to the government of the United States of the payment of non-federal costs by the state and its political subdivisions in federally approved water projects.

WHEREAS, the Federal Water Supply Act of 1958 authorizes the inclusion of water supply storage in reservoirs constructed by the Corps of Engineers and the Bureau of Reclamation for present or anticipated future demand or need for municipal or industrial water, provided the Federal Government is reasonably assured by the states, political subdivisions, or local interests that the water will be needed and that the non-federal financial obligation for the water supply features will be fulfilled; and

WHEREAS, the state of North Dakota through the state water conservation commission is authorized to participate in works for the conservation, development, distribution, and utilization of its water resources; and

WHEREAS, affected local interests have requested and the state water conservation commission has recommended the inclusion of not less than 2,900 acre-feet of water supply storage in the Bowman-Haley Reservoir on the North Fork of the Grand River in North Dakota;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That in view of the ever-increasing demand and anticipated future need for water the Legislature hereby declares as its policy that conservation and storage of water supplies should be provided wherever and whenever feasible and practicable, and that it concurs in the request of local interests and the recommendation of the state water conservation commission for inclusion of the maximum water supply storage in the Bowman-Haley Reservoir project; and

Be It Further Resolved, that the Legislature recognizes the non-federal repayment obligations required in connection with providing water supply features in federally financed projects and hereby directs the state water conservation commission to make and supply such assurances relative thereto as may be required by and satisfactory to the chief of engineers.

Be It Further Resolved, that the secretary of state is directed to transmit a copy of this resolution to the Chief of Engineers of the United States Army Corps of Engineers, each member of the North Dakota congressional delegation, the President of the United States Senate, the Speaker of the United States House of Representatives, the chairmen of the United States Senate and House Appropriations Committees, and the governor of North Dakota.

Filed March 12, 1963.

SENATE CONCURRENT RESOLUTION "K"

(Redlin, Trenbeath, Kautzmann, Wartner, Kisse, Erickson, Becker)
(Roen, Thompson, Mahoney, Torgerson, Meidinger, Beck)

GARRISON DIVERSION CONSTRUCTION

A concurrent resolution memorializing the Congress to promptly review and approve modifying provisions in connection with the construction of the Garrison Diversion Unit thereof.

WHEREAS, construction of the Garrison and Oahe dams on the Missouri River has resulted in the loss of more than one-half million acres of good agricultural lands in North Dakota for reservoir purposes which loss can, to a considerable degree, be mitigated through the development of irrigation as proposed under the multiple purpose Garrison Diversion Unit; and

WHEREAS, such irrigation development in North Dakota, which was authorized by Congress as a part of the Missouri River Basin Project in the Flood Control Act of 1944 and originally designated as the Missouri-Souris Unit, has been modified and redesignated as the Garrison Diversion Unit as a result of studies of the Bureau of Reclamation as set forth in the report of the Secretary of the Interior contained in House Document 325, 86th Congress and subsequently revised and updated by the Bureau of Reclamation report of November 1962; and

WHEREAS, exhaustive studies and investigations by the Bureau of Reclamation have determined the Garrison Diversion Unit to be an engineeringly sound and economically feasible water resources project that will bring many benefits to the state of North Dakota, the region and the nation through the balanced and stabilized economy that will develop in the project area; and

WHEREAS, S. 178 and H.R. 1003 and 1013 that would modify and confirm the authorization of the Garrison Diversion Unit have been introduced in the current session of Congress by the members thereof from North Dakota;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the Thirty-eighth Legislative Assembly of the state of North Dakota, most respectfully and sincerely petitions and urges the Congress of the United States to promptly consider and take favorable action on S. 178, H.R. 1003 and H.R. 1013 to the end that enactment thereof will be accomplished this year; and

Be It Further Resolved, that the secretary of state is hereby directed to forward copies of this resolution to the chairman of the Senate and House Committees on Interior and Insular Affairs, the members of the North Dakota and South Dakota congressional delegations, the Secretary of the Interior and the Commissioner of the Bureau of Reclamation.

Filed March 12, 1963.

SENATE CONCURRENT RESOLUTION "R"
(Meidinger, Nelson, Trenbeath, Kee)

PIPESTEM CREEK, A TRIBUTARY OF JAMES RIVER,
NORTH DAKOTA

A concurrent resolution favoring early development of the Pipestem Creek, near Jamestown, North Dakota, and urging the U. S. Army Corps of Engineers to expedite completion of its investigations, and develop a favorable report, thereon.

WHEREAS, increased public demand for more and improved water management requires the optimum development of our precious water resources for controlling floods, providing water supplies for municipal, industrial, agricultural, recreational, fish and wildlife and other purposes; and

WHEREAS, the Pipestem Creek—the major tributary of the James River in North Dakota—contributes up to 45 percent of the water during flooding of the James River below their confluence, offers an excellent opportunity for multiple-purpose use if properly developed and it will thereby enhance instead of impair property values in affected urban and rural areas; and

WHEREAS, further surveys and investigations for construction of a proposed dam and reservoir thereon, about 5 miles upstream from Jamestown, are continuing under the direction of the U.S. Army Corps of Engineers in cooperation with other agencies;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the Thirty-eighth Legislative Assembly of the state of North Dakota does hereby express its keen interest in, and endorsement of, the proposed development on the Pipestem Creek for the many beneficial purposes aforesaid, and urges the U.S. Army Corps of Engineers to complete its work as expeditiously as possible in the hope that a favorable report thereon can be developed and authorizing legislation enacted in the near future; and

Be It Further Resolved, that the secretary of state transmit copies hereof to the Chief of Engineers, the Riverdale Area Office of Corps of Engineers, the President of the U.S. Senate and Speaker of U.S. House of Representatives, and the North Dakota congressional delegation.

Filed March 12, 1963.

SENATE CONCURRENT RESOLUTION "S"

(Forkner, by request)

STATE AGENCY PRINTING WORK

A concurrent resolution urging the board of higher education, board of administration, and industrial commission to study and review printing operations of state institutions and industries.

WHEREAS, many state institutions and industries are presently engaged in the printing of large quantities of material; and

WHEREAS, individuals engaged in the private printing industry throughout the state have expressed strong opposition to the printing practices of such state institutions and industries; and

WHEREAS, such situation has resulted in ill-feeling between the private printing industry and state institutions and industries;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the board of higher education, board of administration, and the industrial commission of the state of North Dakota study and review printing operations at institutions and industries under their control with a view toward limiting such

printing, where economically feasible, to vocational training or to those items that are absolutely required by their operations and cannot be done by the private printing industry without substantial injury to their operations.

Filed March 6, 1963.

SENATE CONCURRENT RESOLUTION "U"

(Sorlie)

GRAND FORKS AIR FORCE BASE NAME

A concurrent resolution urging the Congress of the United States, the Department of Defense, and the Secretary of the Air Force to designate the Grand Forks Air Force Base as "Lerom Air Force Base" in memory of the late Brigadier General John I. Lerom.

WHEREAS, Brigadier General John I. Lerom was a native of the state of North Dakota, spending his youth and obtaining his education in the schools of the state and graduating from the University of North Dakota; and

WHEREAS, Brigadier General John I. Lerom left the state of North Dakota to serve his country in the year 1940, thus commencing a career of some twenty-two years in the field of aviation, including distinguished service in both the European and Pacific theaters during World War II and continued service in the Air Force Reserve, as well as service in several civilian capacities all essentially related to the advancement of the science of aviation and space; and

WHEREAS, Almighty God has seen fit to take the life of Brigadier General John I. Lerom in an airplane crash while on a training flight as a member of the Air Force Reserve on November 10, 1962; and

WHEREAS, House Resolution 390 has recently been introduced in the Congress of the United States, calling for the naming of the Grand Forks Air Force Base in honor of the late Brigadier General John I. Lerom;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the Congress of the United States, the Department of Defense, and the Secretary of the Air Force are hereby urged to give consideration to the adoption of House Resolution 390 calling for the designation of the Air Force Base at Grand Forks, North Dakota, as Lerom Air Force Base, in honor of the late John I. Lerom, Brigadier General, United States Air Force Reserve.

Be It Further Resolved, that copies of this resolution be forwarded to the Secretary of Defense, the Secretary of the Air Force, the chairmen of the respective United States Senate and House Armed Services Committees, and to each member of the North Dakota congressional delegation.

Filed March 15, 1963.

SENATE CONCURRENT RESOLUTION "V"

(Longmire, Forkner, Erickson, Baeverstad, Meidinger, Mutch)
(Roen, Harris, Holand)

DISTRIBUTION OF PRINTING CONTRACTS

A concurrent resolution relating to public printing.

WHEREAS, under the provisions of section 46-02-09 of the North Dakota Century Code each department or office of the state selects the printing company or printing shop for all its printing work except in the case of legislative bills, journals, documents, laws, and the publicity pamphlets, contracts for which are let by public bids; and

WHEREAS, since there is no central agency with authority to apportion such printing work among the various printing companies and shops of the state, it appears that some printing companies or shops may receive an unusually high number of printing contracts; and

WHEREAS, since all printing companies contribute toward the costs of state and local government through taxes paid, it is proper that each state agency make efforts to apportion its printing work among all of the printing companies within the state where work of the necessary quality can be completed within the time requirements and where the printing costs to the state are not increased thereby;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That all state departments and agencies are directed to make all reasonable efforts to fairly apportion their sixth class printing work among all of the printing companies of the state in all instances where such work can be done within the time limits involved and without increasing the cost of printing to the state.

Filed March 6, 1963.

SENATE CONCURRENT RESOLUTION "W"
(Morgan, Baker, Sorlie, Luick)

PAYMENTS ON FEDERALLY ACQUIRED LAND

A concurrent resolution urging the United States Congress to provide for the payment of the bonded indebtedness and the special assessments of any property which the federal government acquires by condemnation.

WHEREAS, when either the federal government or the state of North Dakota or any of its political subdivisions, exercises the power of eminent domain the bonded indebtedness and special assessments of the condemned property are assumed by the remaining property within the political subdivisions of which such condemned property is a part; and

WHEREAS, this imposes an inequitable and often-times burdensome financial obligation upon the remaining property; and

WHEREAS, North Dakota's Thirty-eighth Legislative Assembly is presently considering legislation which would require the state agencies condemning property to pay the proportionate share of the bonded indebtedness and special assessments of any property acquired by condemnation;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the Thirty-eighth Legislative Assembly hereby respectfully urges and requests the Congress of the United States to enact legislation whereby the United States government would pay the proportionate share of the bonded indebtedness and special assessments of any property which it acquires pursuant to its powers of eminent domain; and

Be It Further Resolved, that the secretary of state is hereby directed to forward copies of this resolution to the Speaker of the House of Representatives and the President of the Senate of the United States Congress, and to each member of the North Dakota congressional delegation.

Filed March 12, 1963.

SENATE CONCURRENT RESOLUTION "X"
(Legislative Research Committee)

MAJOR GENERAL HEBER L. EDWARDS

A concurrent memorial resolution in memory of Major General Heber L. Edwards.

WHEREAS, Almighty God in His infinite wisdom has called from our midst an outstanding citizen of this State, Major General Heber L. Edwards, the Adjutant General of the state of North Dakota; and

WHEREAS, General Heber L. Edwards has served his country and state as a member of the North Dakota National Guard continuously since December 1, 1915, a period of over forty-seven years, and has served as the Adjutant General of the state of North Dakota for the unprecedented period of twenty-six years, serving under six governors, and personally serving on federal active duty both in the United States and overseas in all our nation's wars and national emergencies beginning with the Mexican Border Incident of 1916, World War I, World War II, the Korean Emergency, and the Berlin Crisis; and

WHEREAS, his contribution to the national defense effort as state director of the Selective Service System since 1940 and as a member and officer of many national committees in regard to the National Guard of the United States has resulted in personal recognition far beyond the boundaries of this state; and

WHEREAS, the outstanding combat record of the North Dakota National Guard and its continual high state of readiness to serve the state and nation in any emergency can be attributed in a large measure to the ability, leadership, and diligence of General Heber L. Edwards; and

WHEREAS, General Heber L. Edwards maintained an esprit de corps among the officers and men of the North Dakota National Guard that is seldom equaled in any military or civilian organization, and received in return an unaffected loyalty and true devotion from those serving under him that few men are privileged to receive; and

WHEREAS, his keen understanding of history and the fundamental principles of our form of state and national government resulted in a respect for, and appreciation of, the role of the legislative branch of government that was evident to all members and in a sense of affection for members of the Legislative Assembly, both individually and collectively, that has been evidenced by innumerable acts of assistance and courtesy; and

WHEREAS, this respect and affection has been returned without reservation by the Legislative Assembly and its individual members;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the Thirty-eighth Legislative Assembly of the state of North Dakota expresses its keen and personal sorrow over the passing of Major General Heber L. Edwards, and on behalf of the citizens of the state expresses its deepest appreciation for the outstanding contributions made to this state and nation by Major General Heber L. Edwards; and

Be It Further Resolved, that properly enrolled copies of this resolution be forwarded by the secretary of state to his widow, Mrs. Louise Edwards, and to his daughters, Mrs. Rig Olson and Mrs. F. W. Greenagel.

Filed March 14, 1963.

SENATE CONCURRENT RESOLUTION "Y"

(Solberg, by request)

DESIGNATION OF GARRISON RESERVOIR

A concurrent resolution requesting Congress to designate the impoundment created by Garrison Dam as Lake Sakakawea.

WHEREAS, there is statewide support for designating and naming the impoundment created by the Garrison Dam on the Missouri River in North Dakota by a more historical, romantic, or meaningful name than Garrison Reservoir;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the Congress of the United States be, and it hereby is, most respectfully petitioned and requested to designate and name the impoundment, known as Garrison Reservoir, located above the Garrison Dam on the Missouri River in North Dakota as Lake Sakakawea; and

Be It Further Resolved, that the North Dakota delegation in Congress is earnestly requested to seek enactment of legislation which will give effect to this proposal; and

Be It Further Resolved, that the secretary of state transmit copies of this resolution to the President of the U.S. Senate, Speaker of the U.S. House of Representatives, Chief of En-

gineers, U.S. Army Corps of Engineers, and the members of the North Dakota congressional delegation.

Filed March 18, 1963.

SENATE CONCURRENT RESOLUTION "C-C"

(Brooks, Meidinger, Redlin, Sinner, Thompson, Solberg, Kee)
(Roen, Berube, Van Horn, Mahoney)

LRC STUDY OF TRANSPORTATION LAWS

A concurrent resolution directing the legislative research committee to study North Dakota's transportation laws.

WHEREAS, it is generally agreed by representatives of the railway industry, the motor carrier industry, the shippers employing common carrier service, the North Dakota public service commission, and the North Dakota economic development commission that North Dakota's transportation laws are in need of revision; and

WHEREAS, such laws necessarily affect, either directly or indirectly, the economy and welfare of every North Dakota resident;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the legislative research committee is hereby directed to study all North Dakota laws affecting the transportation of persons and property and to report its findings and recommendations to the Thirty-ninth Legislative Assembly, together with any legislation necessary to carry out such recommendations; and

Be It Further Resolved, that the legislative research committee is authorized to call upon the public service commission, the economic development commission, and any office, agency, or department of this state, or any of its political subdivisions, for such aid and assistance as it deems necessary to carry out such study and to employ such other technical and clerical personnel as may be necessary.

Filed March 15, 1963.

SENATE CONCURRENT RESOLUTION "E-E"
(Longmire, Brooks, Meidinger)

ARRANGEMENTS FOR 1965 NEWSMEN'S DAY

A concurrent resolution in regard to arrangements for a "Newsmen's Day" during the 1965 session of the legislative assembly and urging the North Dakota Association of Broadcasters to join in such arrangements.

WHEREAS, in order to make proper arrangements for "Newsmen's Day" during the 1965 session of the legislative assembly and especially in regard to making firm advance commitments for an outstanding speaker, it is highly desirable that some body be authorized by the legislative assembly to confer with the North Dakota Press Association and Sigma Delta Chi in regard to arrangements; and

WHEREAS, the secretary of state, as the only functioning agency of the legislative assembly during the interim between sessions, could perform this function;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the secretary of state is hereby authorized to confer with representatives of the North Dakota Press Association and Sigma Delta Chi in regard to arrangements for "Newsmen's Day" during the Thirty-ninth Legislative Assembly; and

Be It Further Resolved, that the North Dakota Association of Broadcasters are urged to join in such conferences, if acceptable to the association, for the purpose of planning a joint "Newsmen's Day" to recognize and honor all news media in a single joint program.

Filed March 13, 1963.

SENATE CONCURRENT RESOLUTION "F-F"
(Mahoney)

LRC STUDY OF OUTDOOR RECREATION

A concurrent resolution directing the legislative research committee to study the outdoor recreation program within the state with a view toward its future development.

WHEREAS, the orderly development and improvement of the outdoor recreational program and facilities of the state are essential in order to secure the maximum benefits from such programs and facilities both for the citizens of our state and in order to promote tourism for the economic betterment of our state; and

WHEREAS, a number of state departments and agencies, as well as numerous municipalities within the state, are properly interested in the development and improvement of such programs and facilities; and

WHEREAS, any program for orderly development requires a close study of the interest and efforts of the various departments, agencies, and municipalities involved;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the legislative research committee is hereby directed to conduct a study of the outdoor recreational program in the state of North Dakota, with particular emphasis upon the proper role of each department and agency and municipalities in general; the formation of long-term objectives of such program and the most desirable means of achieving such objectives; methods of obtaining maximum cooperation between various governmental agencies in the joint development and utilization of facilities, and development of policies in such areas as leasing of property and payments in lieu of taxes for land taken, and to report its findings and recommendations to the Thirty-ninth Legislative Assembly together with any legislation necessary to carry out such recommendations;

Be It Further Resolved, that the legislative research committee shall be authorized to call upon any department or agency of the state, including but not limited to the game and fish department, historical society, highway department, water commission, and any outdoor recreation agency which may be created by act of the legislative assembly.

Filed March 18, 1963.

SENATE CONCURRENT RESOLUTION "I-I"

(Morgan)

DAM ON LOWER SHEYENNE RIVER

A concurrent resolution urging the Corps of Engineers to survey, investigate, and study all possible sites for the proposed dam or dams on lower Sheyenne River.

WHEREAS, construction of the proposed dam on the lower Sheyenne River near Kindred, North Dakota, would threaten inundation of thousands of acres of the most valuable and highly improved agricultural land and tree-planted areas in the state; and

WHEREAS, the river flow above such structure would soon build up to a level which would flood and completely inundate the last resting place in a nearby rural cemetery of the intrepid pioneers who settled the region and through whose sweat and toil were wrested from a harsh nature moderately comfortable homes for their families and descendants; and

WHEREAS, the breaking up and severance of farms and homes and the dislocation of families would cause irreparable damage to landowners and subject affected family groups to great inconvenience and in many instances much hardship; and

WHEREAS, there are many suitable sites farther up stream from the proposed location near Kindred which offer as good or better places for the proposed structure or structures;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the U.S. Army Corps of Engineers be and it hereby is requested and urged to survey, investigate, and study all possible sites and a combination of two or more sites in the lower reaches of the Sheyenne River which offer suitable locations for one or more dams required to provide the improvements and benefits sought for the affected areas; and

Be It Further Resolved, that the secretary of state is directed to transmit a copy hereof to the chief of engineers of the U.S. Army Corps of Engineers, District Engineer, Corps of Engineers, St. Paul, Minnesota, the governor, the state engineer, and to each member of the North Dakota congressional delegation.

Filed March 15, 1963.

SENATE CONCURRENT RESOLUTION "J-J"
(Morgan, Solberg)

JURISDICTION OVER FEDERAL LANDS

A concurrent resolution urging the federal government to place certain federally controlled lands and resources within the state under the jurisdiction of the state.

WHEREAS, the federal government by virtue of its power of condemnation has or shall acquire 1,261,889 acres of North Dakota land for reservoir, recreation, and fish and wildlife purposes; and

WHEREAS, the federal government has imposed restrictive measures in the form of policies, programs, and land use, beyond those originally contemplated, on the use of such lands; and

WHEREAS, the federal government, acting through its many offices and agencies, will continue to expand its control over such lands and resources; and

WHEREAS, many of the policies and programs enforced by the federal government are inspired by segments of the population whose interests are diverse and can be detrimental to the economic and political structure of North Dakota and its people; and

WHEREAS, undue hardship has occurred to a majority of the farming and ranching units because of the use of the sealed bid method of leasing rather than the open competitive bidding method as used by the state land department;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That upon the leasing or sale as excess of lands acquired by the federal government, the former owner be granted the right to lease such lands or, in the event of sale, to purchase at the price which the government paid for such lands; and

Be It Further Resolved, that such lands as are acquired by the Corps of Engineers and the Bureau of Fish and Wildlife and Wetlands shall, when not required for use in direct connection with reservoir or wildlife operations, be under the jurisdiction of a state agency designated by the state legislature to control such lands for leasing purposes; and

Be It Further Resolved, that the agencies of the federal government shall obtain state concurrence through the office of the governor, prior to its acquisition and control of any North Dakota lands or resources; and

Be It Further Resolved, that the secretary of state is hereby directed to forward copies of this resolution to the Secretary of the Interior and the members of the North Dakota congressional delegation.

Filed March 18, 1963.

SENATE CONCURRENT RESOLUTION "K-K"
(Robinson)

ETHYL ALCOHOL PLANT

A concurrent resolution calling upon Congress to authorize and direct the U. S. Department of Agriculture to invest crop research funds in the construction of a pilot industrial ethyl alcohol plant in North Dakota, and directing the economic development commission and North Dakota wheat commission to direct efforts toward the accomplishment of such construction and promotion of the use of the products thereof.

WHEREAS, the basic economy of the state of North Dakota has been and will continue to be bound to the production of agricultural products, with the future prosperity of the state dependent upon the availability of a cash market for these products; and

WHEREAS, the 730,000 head of horses present in North Dakota in the 1920's with the resultant consumption of 50 million bushels of oats per year, have today given way to some 400,000 cars, trucks and tractors which consume 280 million gallons of fuel each year; and

WHEREAS, the fuel used by present-day agriculture to power modern-day implements is derived from a nonrenewable resource, while renewable agricultural resources can be used for the production of ethyl alcohol for agricultural, industrial, and automotive fuel use to the extent that a tremendous market for our farm crops could be created; and

WHEREAS, at present ten percent of North Dakota's cropland is out of production, with further acre reductions foreseeable in the future, which land, if returned to production would create an increased fuel demand that would more than offset any decline in fuel consumption due to the use of a ten percent ethyl alcohol blend; and

WHEREAS, research and application have proven that industrial ethyl alcohol can be successfully manufactured from farm products containing sugar or starch such as wheat, barley, oats, corn, potatoes, and sugar beets, with from two to three gallons of ethyl alcohol obtainable from every bushel of grain, in addition to valuable by-products such as protein and carbon dioxide; and

WHEREAS, ethyl alcohol is acknowledged to be one of the most versatile and valuable chemicals known to man and has proven to be a valuable and practical fuel when blended with gasoline in amounts up to thirty percent and is easily adaptable to storage, in marked contrast with huge stocks of the grain from which it is derived; and

WHEREAS, the conversion of abundant grains into industrial ethyl alcohol would be of great benefit to the state of North Dakota through expansion of our farm cash markets, as well as increasing job opportunities and transportation services and providing a broadened tax base for our state and local governments;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the Congress of the United States is hereby urged to authorize and direct the U.S. Department of Agriculture to invest crop research funds in the construction of a pilot plant which will lead to the operation of a modern industrial ethyl alcohol plant in North Dakota for the purpose of converting agricultural crops into industrial ethyl alcohol, and that upon the commencement of operation of such plant, the Congress and the U.S. Department of Agriculture are hereby urged to restore crop acreage allotments within the state of North Dakota in an amount equal to the amount of agricultural crop production consumed in such plant;

Be It Further Resolved, that the North Dakota economic development commission and North Dakota wheat commission are hereby directed to take all steps necessary to encourage the construction of such plant in North Dakota, and to explore and develop ways and means of promoting and encouraging the use of a ten percent blend of industrial ethyl alcohol in gasoline and other fuels; and

Be It Further Resolved, that copies of this resolution be forwarded to the chairmen of the United States Senate and House Agriculture Committees, to the Secretary of Agriculture, Rural Area Development Committees, and to each member of the North Dakota congressional delegation.

Filed March 18, 1963.

SENATE CONCURRENT RESOLUTION "N-N"
(Trenbeath, Kisse)

REHABILITATION OF STRIP MINE LANDS

A concurrent resolution directing the state geological survey to study methods of rehabilitating lands disrupted by strip coal mining operations.

WHEREAS, the amount of coal taken from strip mines within the state during past years has been quite substantial; and

WHEREAS, development of the industries of the state, particularly the industry of electrical energy production, will call for increased strip coal mining operations in the future; and

WHEREAS, strip mining operations involve the removal of large quantities of earth and other materials in order that coal veins may be exposed and removed; and

WHEREAS, the failure to properly rehabilitate lands disturbed by strip mining operations can result in leaving a topography which may be unsanitary, unsafe, and unsightly, as well as being an economic waste to the state through the inability to subsequently utilize the land for any beneficial purpose;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the state geological survey is hereby directed to study the problem of the leveling and rehabilitation of lands disturbed by strip coal mining operations, with a view both toward what action has been taken to rehabilitate such lands in the past and what may be done in the future to assure the maximum utilization of such lands by the owners thereof and by the state, and to make such recommendations as may be necessary to the Thirty-ninth Legislative Assembly; and

Be It Further Resolved, that the geological survey shall be authorized to secure the assistance of any state department, agency, board or commission, or the employees thereof, including, but not limited to the state forester, soil and water conservation commissions, coal mine inspector, and game and fish department, as well as private coal mine operators and any agencies and departments of the federal government.

Filed March 15, 1963.

SENATE CONCURRENT RESOLUTION "P-P"
(Reichert, Harris, Solberg, Longmire, Wartner, Torgerson)
(Mahoney)

LRC STUDY OF CONSTITUTIONAL REVISION

A concurrent resolution directing the legislative research committee, with the assistance of outstanding citizens of the state, to conduct a study of the Constitution of the state of North Dakota, and to make its recommendations in regard to the revision thereof, to the Thirty-ninth Legislative Assembly.

WHEREAS, the basic Constitution of the state of North Dakota was adopted in the year 1889; and

WHEREAS, in spite of numerous amendments since that time, the basic Constitution remains mainly unchanged; and

WHEREAS, many of the ideas of the late 1800's which found their way into the Constitution have, in later state constitutions, been discarded as not the most desirable in light of modern conditions; and

WHEREAS, our present Constitution is quite lengthy and detailed when compared with more recently adopted constitutions or with the United States Constitution; and

WHEREAS, constitutions, while not designed to have the flexibility of laws, should be examined periodically with a view toward their adequacy in light of changing conditions;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the legislative research committee is hereby directed to conduct a study for the purpose of proposing revisions of the Constitution of the state of North Dakota. The committee may appoint such subcommittees as it may deem necessary for the purpose of studying and proposing revisions of various areas of the Constitution. The committee shall call upon citizens of the state who have distinguished themselves by service in and knowledge of fields of endeavor especially qualifying them to assist in the study. Citizens thus appointed shall participate fully in the conduct of the study and all subcommittee meetings but shall possess no vote in any final matter or recommendation to be decided by the committee or its subcommittees. Citizen members may be compensated at the same rates as are legislative members for their time spent on the business of the committee, and may be reimbursed for actual and necessary expenses at the same rates as are legislative

members. The committee and its subcommittees shall hold such hearings throughout the state as may be necessary to enable it to ascertain the views of all interested citizens, and may contract for the employment of specialized personnel in such areas as may be deemed desirable. The committee shall submit its recommendations on the revision of the Constitution, or such portions thereof as shall have been completed, to the Thirty-ninth Legislative Assembly, together with such legislation and resolutions as may be required to carry out such recommendations.

Filed March 15, 1963.

SENATE CONCURRENT RESOLUTION "Q-Q"
(Mutch)

LRC STUDY OF COUNTY REORGANIZATION LAWS

A concurrent resolution directing the legislative research committee to conduct a study of the laws governing the division, consolidation, and disorganization of counties.

WHEREAS, the laws of the state of North Dakota relating to the division, consolidation, and disorganization of counties have, to a large extent remained unchanged since their adoption; and

WHEREAS, population shifts plus the greatly increasing costs of operating county governments over recent years have made it quite likely that the residents of some of our counties may wish to avail themselves of our laws in the field of division, consolidation, and disorganization of counties; and

WHEREAS, the policy of the state, as expressed through its laws, should be to facilitate action by the people of any county in this field when a majority of the voters there feel that continued existence of any county represents an excessive economic burden;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the legislative research committee is hereby directed to conduct a study of present laws governing the division, consolidation, and disorganization of counties in order to ascertain their adequacy in view of present-day conditions as they affect the residents of any such county, and to make its report and recommendations thereon to the Thirty-ninth Legislative Assembly, together with any legislation required to carry out such recommendations.

Filed March 15, 1963.

SENATE CONCURRENT RESOLUTION "R-R"
(Wartner, Reichert)

PRAYER IN PUBLIC SCHOOLS

A concurrent resolution to memorialize the Congress of the United States to immediately take the necessary steps to give to the citizens of this Nation an opportunity by constitutional amendment to determine whether or not prayer shall be permitted in the public schools.

WHEREAS, no civilization, no government, and no Nation has ever existed, nor could they be possible, without a fundamental and profound recognition of and reverence for some authority, some ideal, some being, superior to the individual, which in our national heritage we have expressed as a belief in and dependence upon Almighty God; and

WHEREAS, our national tradition and heritage of public and civic prayer give purpose and meaning to our Union as a Nation, without which we could only suffer the anarchy or tyranny of the oppressed peoples in less enlightened parts of the world; and

WHEREAS, education may be a worthless thing if limited to merely the dissemination of factual information without the expression and understanding of ideas, ideals, theories, customs, and beliefs of other men, whether designated as being of a religious nature or by some other appellation; and

WHEREAS, none of the constitutional safeguards of individual rights and civil liberties of the citizens of these United States were designed or intended to prohibit prayer in the schools or in any other public place, so long as no citizen is coerced into a participation therein inconsistent with his own beliefs; and

WHEREAS, the Supreme Court of the United States has had occasion, upon June 25, 1962, in its decision rendered in the case of *Engel, et al. v. Vitale, et al.*, No. 468 upon the docket of its 1961 October term, to so construe our Constitution as to prohibit public prayer in public schools;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the Congress of the United States is hereby memorialized to immediately take the necessary steps to provide the citizens of this great Nation an opportunity to amend the United States Constitution to determine whether or not public prayer shall be permitted in the public schools of the several states;

Be It Further Resolved, that the secretary of state shall forward copies of this resolution to the president of the United States Senate, the speaker of the United States House of Representatives, and to each member of the North Dakota congressional delegation.

Filed March 12, 1963.

SENATE CONCURRENT RESOLUTION "U-U"
(Holand, Longmire, Foss)

HIGHWAY DEPARTMENT BUDGETS

A concurrent resolution directing the state highway department to submit budgets for its operations to the Thirty-ninth Legislative Assembly.

WHEREAS, it is the duty of the legislative assembly, through the enactment of laws and the approval of appropriations, to provide for and supervise the activities and programs of agencies of the executive branch of government; and

WHEREAS, section 186 of the Constitution of North Dakota, as confirmed by recent Supreme Court cases, prohibits the disbursement of public funds without a prior appropriation by the legislative assembly; and

WHEREAS, through laws of questionable constitutionality the legislative assembly has authorized the expenditure of public funds by the state highway department without the necessity of prior legislative approval and appropriation, which delegation of legislative authority is clearly contrary to the spirit of section 186 of the Constitution of North Dakota and possibly a violation of the letter of such section; and

WHEREAS, the state highway department spends a greater amount of public funds than any other state agency, totaling between seventy and eighty millions of dollars during the usual biennial highway program; and

WHEREAS, the legislative assembly should perform its constitutional duty of biennially reviewing the operations of the state highway department and specifically appropriate and approve the expenditure of funds by the state highway department for all purposes except those expended by contract for the actual construction of highways, roads, streets, and bridges;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the state highway commissioner is hereby directed and required to submit to the state budget board in the same manner and at the same time as other state agencies a complete proposed budget and request for appropriations for expenditures to be made during the biennium beginning July 1, 1965, and thereafter in a similar manner for all subsequent bienniums. Such budget shall be in such detail as the state budget board shall require. The budget and appropriation request approved by the state budget board for the state highway department shall be submitted to the Thirty-ninth Legislative Assembly in the same manner as other budgets and appropriation requests are submitted. The Thirty-ninth Legislative Assembly is further requested to amend all laws in regard to the state highway department to delete all provisions for the expenditure of funds by the state highway department for the purposes herein specified without specific biennial appropriation and approval by the legislative assembly.

Filed March 15, 1963.

SENATE CONCURRENT RESOLUTION "V-V"

(Holand, Redlin, Becker, Mutch)

LRC STUDY OF TAX LAWS

A concurrent resolution directing the legislative research committee, with the aid and cooperation of the state tax department, to continue its study of the state tax laws and tax structures.

WHEREAS, the legislative research committee did not have sufficient time during the past biennium to complete its study of North Dakota's tax laws and tax structure; and

WHEREAS, numerous inequities still exist which affect each resident and the economic development and growth of the state as a whole; and

WHEREAS, further study of North Dakota's tax laws and policies, and their administration, can increase tax collections of the state through improvements in such laws, policies, and tax administration;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the legislative research committee is directed to continue on a permanent basis, with the aid and cooperation of the state tax department, the study of the tax laws and tax struc-

ture that was undertaken during the 1959-1961 biennium and continued during the 1961-1963 biennium, and to report the results of such study and submit its recommendations, together with any legislation necessary to carry out such recommendations, to the Thirty-ninth Legislative Assembly; and

Be It Further Resolved, that the legislative research committee is authorized to call upon any office, department, or agency of the state or of any of its political subdivisions, for such information, aid, and assistance as may be necessary to carry out the tax study, and to employ such other technical and clerical personnel as may be necessary.

Filed March 15, 1963.

SENATE CONCURRENT RESOLUTION "W-W"

(Holand, Redlin)

COMMENDATION TO STATE MEDICAL ASSOCIATION

A concurrent resolution commending the North Dakota State Medical Association and several of its individual members for the excellent work done in establishing and staffing the emergency first aid station in the state capitol building, Bismarck, North Dakota, during the Thirty-eighth Legislative Assembly.

WHEREAS, the State Medical Association provided, without charge, an emergency first aid station for the members and employees of the Thirty-eighth Legislative Assembly as well as members of the news media, lobbyists and visitors; and

WHEREAS, individual members of the State Medical Association were in daily attendance at the state capitol building; and

WHEREAS, these individual physicians were ever ready to provide service;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That we commend the North Dakota State Medical Association for providing emergency first aid care for all who required it during the Thirty-eighth Legislative Assembly; and

Be It Further Resolved, that the secretary of the senate be instructed to send a copy of this resolution to Mr. Lyle A. Limond, executive secretary of the North Dakota State Medical Association.

Filed February 28, 1963.

SENATE CONCURRENT RESOLUTION "X-X"

(Holand, Redlin, Sinner, Mahoney, Thompson, Bopp, Solberg)
(Van Horn, Becker, Wartner, Kjos, Kisse, Chesrown, Kautzmann)
(Sanford, Roen, Berube, Reichert, Tuff, Witteman, Kamrath)
(Trenbeath, Forkner, Baeverstad, Ringsak, Nelson, Mutch, Harris)
(Lips, Erickson, Wadeson, Beck, Strinden, Saumur, Torgerson)
(Longmire, Sorlie, Miller, Kee)

LRC STUDY OF LEGISLATIVE RULES

A concurrent resolution directing the legislative research committee to study and prepare necessary rules changes for the purpose of placing every member of the legislative assembly on an appropriations subcommittee.

WHEREAS, the function of determining how much money should be spent by the state, and for what purposes, is the most important problem facing the legislative assembly today; and

WHEREAS, each house is, to a degree, compelled to rely upon the judgment of its appropriations committee due to a lack of other sources of information; and

WHEREAS, the time available for hearing and deciding the merits of proposed budgets and appropriations is clearly inadequate for reaching well-considered decisions; and

WHEREAS, in view of the expanding range of state functions with the resulting increase in state expenditures, it appears essential that the legislative assembly have more time for a closer examination of appropriation requests;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the legislative research committee is hereby directed to study and prepare for submission to the Thirty-ninth Legislative Assembly proposed changes in the rules of the senate and the house of representatives which would place every member of the senate and house upon a subcommittee of the appropriations committee of his respective body, for the purpose of giving, during the early portion of the session, a more careful scrutiny of each request for appropriations, and making recommendations to the appropriations committees to guide such committees in their deliberations on state appropriations.

Filed March 15, 1963.

SENATE CONCURRENT RESOLUTION "Z-Z"
(Committee on Delayed Bills)

PRINTING BY STATE AGENCIES

A concurrent resolution urging all agencies of the state to refrain from purchasing offset type reproduction or printing equipment.

WHEREAS, several state departments and agencies have purchased and are presently using offset type reproduction or printing equipment for the reproduction or printing of material used or distributed by them, and other departments have expressed interest in the acquisition of such equipment; and

WHEREAS, individuals engaged in the private business of printing have expressed opposition to the acquisition or use of such offset reproduction or printing equipment by departments and agencies of the state and have urged that material be reproduced or printed by contract with private businesses;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That in the interest of economy in state government all agencies not presently possessing such equipment are urged and directed to refrain from purchasing offset type reproduction or printing equipment; and

Be It Further Resolved, that to the maximum extent practical and economically feasible, each department and agency of the state is urged to fill its printing requirements through contracts with private printing businesses of the state.

Filed March 15, 1963.

SENATE CONCURRENT RESOLUTION "A-A-A"
(Delayed Bills Committee)
(Wartner)

LOANS ON IRRIGATED LANDS

A concurrent resolution urging the board of university and school lands to invest funds under its control in loans upon irrigated farm lands within the state.

WHEREAS, the undeveloped potential of irrigable lands within the state appears great, with some 50,000 acres being available in the vicinity of North Dakota rivers alone; and

WHEREAS, there exists a demonstrated need for capital for the purpose of developing such irrigable lands to their productive capacity; and

WHEREAS, the board of university and school lands has large sums of money invested in United States government obligations which are reaching maturity from time to time; and

WHEREAS, these moneys or a portion thereof could represent a major means of financing the development of irrigation;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the board of university and school lands is hereby urged to divert a portion of the moneys presently invested in United States government obligations by investing such moneys, as the obligations mature, in first mortgages upon irrigated farm lands within the state in amounts of up to fifty percent of the improved value of such lands in order to provide valuable assistance to the development of irrigation within the state, and that plans and programs for such assistance be developed in conjunction with state and local soil conservation officials.

Filed March 18, 1963.

SENATE CONCURRENT RESOLUTION "B-B-B"

(Delayed Bills Committee)
(Morgan, Wartner)

GRAIN INSPECTION POINTS

A concurrent resolution urging the Interstate Commerce Commission, the Great Northern Railroad, and the Soo Line Railroad to establish and designate official inspection points for the grading of grain in the Hankinson and Wahpeton, North Dakota areas.

WHEREAS, the state of North Dakota has an agricultural economy which is based upon the production and sale of small grains which are federally inspected and graded in order to be sold in interstate commerce; and

WHEREAS, the greater percentage of grain grown in North Dakota finds its way into interstate commerce for sale, and it is financially beneficial to the people of the state of North Dakota to have this grain inspected and graded before it leaves the state; and

WHEREAS, hold points established in the Hankinson and Wahpeton, North Dakota areas, would tend to create a grain

market in this area, stimulate competition, result in higher prices to the North Dakota farmer, and aid in the growth of the grain processing industry in the state of North Dakota; and

WHEREAS, the earliest points of grading provide the greatest market sensitivity;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the Interstate Commerce Commission favorably reconsider any move designed to establish and designate official inspection points for the grading of grain in the Hankinson and Wahpeton, North Dakota areas; and

Be It Further Resolved, that the Great Northern Railroad and the Soo Line Railroad, under the corporate powers of both railroads, designate hold points for the inspection and grading of grain in the Hankinson and Wahpeton, North Dakota areas; and

Be It Further Resolved, that copies of this resolution be forwarded by the secretary of state to:

Mr. Laurence K. Walrath, Chairman
Interstate Commerce Commission
12th Street and Constitution Avenue Northwest
Washington 25, D.C.

Mr. J. M. Budd, President
Great Northern Railway Company
175 East 4th Street
St. Paul 1, Minnesota

Mr. Leonard H. Murray, President
Soo Line Railroad Company
First National Soo Line Building
Minneapolis 40, Minnesota.

Filed March 18, 1963.

SENATE CONCURRENT RESOLUTION "D-D-D"
(Holand)

TAX DEPARTMENT FINANCING

A concurrent resolution requesting the emergency commission to comply with and honor any reasonable request of the tax department for funds necessary to carry out its duties.

WHEREAS, the Thirty-eighth Legislative Assembly during the closing hours of the session has imposed numerous additional duties upon the state tax department; and

WHEREAS, it appears that the tax department appropriation will not be adequate to allow full compliance with such additional duties, but limited time does not permit the legislative assembly to properly evaluate or foresee or determine the necessary amount of additional funds;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the emergency commission is hereby respectfully requested to comply with and honor any reasonable request of the state tax department for any additional funds necessary to adequately carry out its duties in making plans and preparations for carrying out new duties to be imposed by law during the biennium beginning July 1, 1963; and

Be It Further Resolved, that the secretary of state is hereby directed to present a copy of this resolution to the emergency commission.

Filed March 19, 1963.

SENATE MEMORIAL RESOLUTIONS

SENATE MEMORIAL RESOLUTION No. 1000

(Erickson, Lips)

VICTOR L. GILBREATH

A memorial resolution in memory of Victor L. Gilbreath.

WHEREAS, Almighty God in His infinite wisdom, has called from our midst a friend and an outstanding citizen of North Dakota, Victor L. Gilbreath; and

WHEREAS, Mr. Gilbreath had served our state in the income tax division of the tax department, as deputy state treasurer, as state budget director, as chief clerk and assistant chief clerk of the house of representatives, and in numerous volunteer activities relating to highway construction and water conservation; and

WHEREAS, Mr. Gilbreath had served as assistant secretary of the senate, as sergeant at arms of the senate, and, for two sessions, as secretary of the senate; and

WHEREAS, his dedication to our form of government and, particularly, his devotion to the legislative assembly, set an example of true Americanism and contributed greatly to the functioning of the government of this state; and

WHEREAS, his unflinching courage in the face of incurable illness was a source of inspiration to all who knew him;

Now, Therefore, Be It Resolved by the Senate of the Thirty-eighth Legislative Assembly:

That on behalf of the citizens of this state, it expresses its deepest appreciation for the valuable and outstanding contributions to the state of North Dakota that have been made by Victor L. Gilbreath, and hereby expresses the heartfelt sympathy of its members to his widow and children; and

Be It Further Resolved, that the secretary of state forward a properly enrolled copy of this resolution to his widow Mrs. Victor L. Gilbreath, his daughter Laura Gilbreath, and his son Roy Gilbreath.

Filed February 28, 1963.

STATE MEMORIAL RESOLUTION No. 1001
(Committee on Senate Memorial Resolutions)

DECEASED MEMBERS

A memorial resolution for deceased members of the senate of the state of North Dakota.

WHEREAS, since the adjournment of the Thirty-seventh Legislative Assembly, God in His wisdom has seen fit to summon to eternal rest His servants and our former colleagues:

S. J. ATKINS, who served in the eighteenth to the twenty-third legislative assemblies, inclusive, from the twenty-second legislative district, died August 16, 1962.

PETER A. BERG, who served in the sixteenth and the seventeenth legislative assemblies from the fourteenth legislative district, died April 7, 1962.

W. J. "BILLY" BRAUN, who served in the twenty-sixth to the thirty-first legislative assemblies, inclusive, from the twelfth legislative district, died January 28, 1963.

HENRY C. FROJEN, who served in the twenty-ninth and the thirtieth legislative assemblies from the twenty-fifth legislative district, died December 23, 1961.

GOTTLIEB ISAAK, who served in the twenty-first to the twenty-fourth legislative assemblies, inclusive, and the twenty-ninth legislative assembly in the house of representatives and who also served in the senate in the twenty-sixth and the twenty-seventh legislative assemblies from the forty-eighth legislative district, died August 25, 1961.

WILLIAM KAMRATH, who served in the sixteenth to the twentieth legislative assemblies, inclusive, in the house of representatives and who also served in the senate in the twenty-first to the thirty-fourth legislative assemblies, inclusive, from the forty-seventh legislative district, died June 12, 1961.

ALEX LIND, who served in the twenty-third and the twenty-fourth legislative assemblies from the forty-fifth legislative district, died December 3, 1962.

STEVEN C. NELSON, who served in the twenty-eighth to the thirty-first legislative assemblies, inclusive, from the sixteenth legislative district, died November 8, 1961.

MARTIN OLSON, who served in the twenty-sixth to the twenty-ninth legislative assemblies, inclusive, from the thirty-fourth legislative district, died January 20, 1962.

WHEREAS, today, we as members of the senate of the Thirty-eighth Legislative Assembly of the state of North Dakota, pause to mourn the passing of our former colleagues, and to honor their memories; and

WHEREAS, these men rendered outstanding service to the people of this state by their contribution to their fellow men and their communities;

Now, Therefore, Be It Resolved by the Senate of the Thirty-eighth Legislative Assembly of the State of North Dakota:

That we express our keen sorrow on their passing and our appreciation, on behalf of the people of North Dakota, of the loyal and devoted service of these, our former colleagues.

Be It Further Resolved, that for the perpetuation of their memory, this token of respect and sympathy by their successors in trust be printed in the journal of the senate and that duly enrolled copies of this resolution be presented by the secretary of state to the surviving families of these deceased senators.

Filed February 27, 1963.

SENATE MEMORIAL RESOLUTION No. 1002
(Holand, Redlin)

JAMES A. WENSTROM

A memorial resolution extending sympathy and condolence to Lieutenant Governor Frank A. Wenstrom upon the death of his father.

WHEREAS, God in His infinite wisdom has seen fit to summon from our midst Mr. James A. Wenstrom, the father of our colleague, Lieutenant Governor Frank A. Wenstrom; and

WHEREAS, Mr. James A. Wenstrom was one of North Dakota's pioneers and served as a senator from the thirty-third legislative district during the fifteenth, sixteenth, 1919 special session, seventeenth and eighteenth sessions; and

WHEREAS, Lieutenant Governor Wenstrom is held in the highest esteem by all members of the legislative assembly, who share with him his great sorrow;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota:

That we express our deep sorrow and extend to Lieutenant Governor Wenstrom and all members of his family our sincere sympathy and condolences in this their time of sorrow; and

Be It Further Resolved, that this resolution be entered in the journal and the secretary of state is hereby directed to present an enrolled copy to Lieutenant Governor Frank A. Wenstrom and members of his family.

Filed March 9, 1963.

REFERENDUM NOTE

Referendum petitions have been filed against the following Acts of the 1963 Legislative Assembly. The Governor has set July 17, 1963 as the date for an election on such Acts:

Senate Bill

Chapter Page

✓	No. 39	✓	Withholding of income taxes (Sections 57-38-58 through 57-38-64, 57-38-64.1, NDCC)	396	744
✓	No. 50	✓	Adjusted tax on individual income (Section 57-38-65, NDCC)	397	749
X ✓	No. 360	✓	Individual income tax rate (Section 57-38-29, NDCC)	395	742

House Bill

+ ✓	No. 750	✓	School district levy limitations (Section 57-15-14, NDCC)	385	729
✓	No. 771	✓	Urban renewal tax levy (Section 40-58-18.1, NDCC)	300	535