

APPROPRIATIONS

CHAPTER 1

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

BUDGET

AN ACT

To appropriate money for the expenses of the executive department of the state government, and for all 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 Department 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 the general fund in the state treasury, to the credit of each department, subdivision and public school hereinafter named 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, 1967, and ending June 30, 1969, to wit:

§ 3. Appropriations.)

Subdivision 1.

Executive Office

Salaries and wages.....	\$	94,381.00
Fees and services.....		11,100.00
Supplies and materials.....		5,000.00
Equipment		1,500.00
Governor's contingent		4,000.00
National governors' conference.....		4,000.00
Total	\$	119,981.00

Subdivision 2.

Council of State Governments

Fees and services.....	\$	9,250.00
Council of State Governments 1968		
Meeting in North Dakota.....		5,000.00
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Total	\$	14,250.00

Subdivision 3.

Lieutenant Governor

Salaries and wages.....	\$	3,824.00
Fees and services.....		1,800.00
Supplies and materials.....		300.00
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Total	\$	5,924.00

Subdivision 4.

Secretary of State

Salaries and wages.....	\$	138,040.00
Fees and services.....		19,625.00
Supplies and materials.....		10,000.00
Equipment		2,000.00
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Total	\$	169,665.00

Subdivision 5.

Secretary of State—Public Printing

Fees and services.....	\$	1,300.00
Supplies and materials.....		50,050.00
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Total	\$	51,350.00

Subdivision 6.

State Auditor

Salaries and wages.....	\$	193,197.00
Fees and services.....		53,000.00
Supplies and materials.....		2,000.00
Equipment		1,500.00
		<hr/>
Total	\$	249,697.00

Subdivision 7.

State Treasurer

Salaries and wages.....	\$	138,789.00
Fees and services.....		16,400.00
Supplies and materials.....		7,900.00
Equipment		3,300.00
Total	\$	166,389.00

Subdivision 8.

Attorney General

Salaries and wages.....	\$	402,917.00
Fees and services.....		40,400.00
Supplies and materials.....		9,700.00
Equipment		3,000.00
Total	\$	456,017.00

Subdivision 9.

Attorney General Licensing

Salaries and wages.....	\$	96,966.00
Fees and services.....		40,302.00
Supplies and materials.....		3,120.00
Equipment		884.00
Total	\$	141,272.00

Subdivision 10.

State Tax Commissioner

Salaries and wages.....	\$	1,419,433.00
Fees and services.....		295,153.00
Supplies and materials.....		110,522.00
Equipment		37,009.00
Total	\$	1,862,117.00

Subdivision 11.

Board of Administration

Salaries and wages.....	\$ 671,700.00
(Including commissioners' salaries not to exceed \$18,000.00 each for the biennium)	
Fees and services.....	667,000.00
Supplies and materials.....	92,000.00
Equipment	40,000.00
Special assessments.....	20,282.00
Total	\$ 1,490,982.00

Subdivision 12.

Radio Communications

Salaries and wages.....	\$ 107,114.00
Fees and services.....	54,736.00
Supplies and materials.....	35,505.00
Equipment	27,732.00
Total	\$ 225,087.00

Subdivision 13.

State Industrial Commission

Salaries and wages.....	\$ 8,612.00
Fees and services.....	7,600.00
Supplies and materials.....	250.00
Total	\$ 16,462.00

Subdivision 14.

Department of Accounts and Purchases

Salaries and wages.....	\$ 345,855.00
Fees and services.....	53,300.00
Supplies and materials.....	22,000.00
Equipment	6,900.00
Total	\$ 428,055.00

Subdivision 15.

Delegates to National Convention

Fees and services.....	\$	6,000.00
Total	\$	6,000.00

Subdivision 16.

Presidential Electors

Fees and services.....	\$	400.00
Total	\$	400.00

Subdivision 17.

Department of Public Instruction

Salaries and wages.....	\$	526,303.00
Fees and services.....		90,000.00
Supplies and materials.....		70,000.00
Equipment		13,500.00
Grants, benefits and claims:		
Foundation program payments.....		38,450,000.00
Additional foundation program payments....		7,050,000.00

The appropriation of \$7,050,000.00 contained in the above-lined item shall become effective and remain in effect only and if and so long as the provisions of Senate Bill Number 403 as approved by the Fortieth Legislative Assembly shall become effective or remain in effect, and if the provisions of Senate Bill Number 403 as approved by the Fortieth Legislative Assembly should be suspended or terminated or should not go into effect, the above-lined item of \$7,050,000.00 shall likewise be suspended or terminated or shall not go into effect.

Special education.....		700,000.00
Additional special education appropriation		200,000.00

The appropriation of \$200,000.00 contained in the above-lined item shall become effective and remain in effect only and if and so long as the provisions of Senate Bill Number 403 of the Fortieth Legisla-

tive Assembly become effective or remain in effect, and if the provisions of Senate Bill Number 403 as approved by the Fortieth Legislative Assembly should be suspended or terminated or should not go into effect, the above-lined item in the amount of \$200,000.00 shall likewise be suspended or terminated or shall not go into effect.

Indian scholarships.....	12,600.00
Walsh county agriculture school.....	21,000.00
Total	<u>\$47,133,403.00</u>

Subdivision 18.

Department of Agriculture

Salaries and wages.....	\$ 210,228.00
Fees and services.....	69,200.00
Supplies and materials.....	23,800.00
Equipment	3,300.00
Total	<u>\$ 306,528.00</u>

Subdivision 19.

Public Service Commission

Salaries and wages.....	\$ 457,639.00
Fees and services.....	89,213.00
Supplies and materials.....	35,180.00
Equipment	15,000.00
Total	<u>\$ 597,032.00</u>

Subdivision 20.

Public Service Commission—Utility Valuation

Fees and services.....	\$ 20,000.00
Total	<u>\$ 20,000.00</u>

Subdivision 21.

Aeronautics Commission

Salaries and wages.....	\$ 55,882.00
Fees and services.....	21,862.00

Supplies and materials.....	8,721.00
Equipment	1,000.00
Total	\$ 87,465.00

Subdivision 22.

State Land Commissioner

Salaries and wages.....	\$ 219,700.00
(Including commissioner's salary not to exceed \$18,000.00 for the biennium)	
Fees and services.....	45,000.00
Supplies and materials.....	6,700.00
Equipment	5,000.00
Total	\$ 276,400.00

Subdivision 23.

Adjutant General

Salaries and wages.....	\$ 135,460.00
Fees and services.....	1,248.00
Supplies and materials.....	3,120.00
Equipment	832.00
State flags.....	2,000.00
Inaugural ceremonies.....	1,500.00
Total	\$ 144,160.00

Subdivision 24.

Pardon Board

Salaries and wages.....	\$ 600.00
Fees and services.....	2,000.00
Total	\$ 2,600.00

Subdivision 25.

Parole Office

Salaries and wages.....	\$ 184,038.00
Fees and services.....	66,200.00
Supplies and materials.....	5,000.00
Equipment	6,500.00
Total	\$ 261,738.00

Subdivision 26.

Fugitives from Justice—Arrest and Return

Fees and services.....	\$	10,000.00
Total	\$	10,000.00

Subdivision 27.

Reward for Apprehension of Criminals

Fees and services.....	\$	1,000.00
Total	\$	1,000.00

Subdivision 28.

State Examiner

Salaries and wages.....	\$	466,644.00
(Including state examiner's salary not to exceed \$24,000.00 for the biennium)		
Fees and services.....		112,150.00
Supplies and materials.....		4,500.00
Equipment		3,000.00
Total	\$	586,294.00

Subdivision 29.

State Securities Commissioner

Salaries and wages.....	\$	79,264.00
(Including securities commissioner's salary not to exceed \$22,080.00 for the biennium)		
Fees and services		10,000.00
Supplies and materials		3,000.00
Equipment		500.00
Total	\$	92,764.00

Subdivision 30.

State Laboratories Department

Salaries and wages	\$	483,300.00
(Including director's salary not to exceed \$18,000.00 for the biennium)		

Fees and services	110,500.00
Supplies and materials	42,000.00
Equipment	10,000.00
Total	<u>\$ 645,800.00</u>

Subdivision 31.

Coal Mine Inspector

Salaries and wages	\$ 21,952.00
Fees and services	3,000.00
Supplies and materials	4,000.00
Equipment	500.00
Total	<u>\$ 29,452.00</u>

Subdivision 32.

Veterinary Medical Examiner

Salaries and wages	\$ 2,000.00
Fees and services	500.00
Supplies and materials	200.00
Total	<u>\$ 2,700.00</u>

Subdivision 33.

State Board of Higher Education

Salaries and wages	\$ 158,630.00
Fees and services	24,425.00
Supplies and materials	3,700.00
Equipment	1,400.00
Total	<u>\$ 188,155.00</u>

Subdivision 34.

Federal Student Loan Program

Grants, benefits and claims.....	\$ 300,000.00
Total	<u>\$ 300,000.00</u>

Subdivision 35.

Reciprocal Agreements

Grants, benefits and claims.....	\$	73,200.00
Total	\$	73,200.00

Subdivision 36.

State Aid to Junior Colleges

Grants, benefits and claims.....	\$	1,162,000.00
Total	\$	1,162,000.00

Subdivision 37.

Civil Air Patrol

Fees and services	\$	17,000.00
Supplies and materials		13,000.00
Equipment		3,800.00
Total	\$	33,800.00

Subdivision 38.

Emergency Commission—State Contingency Fund

State contingency fund	\$	500,000.00
Total	\$	500,000.00

Subdivision 39.

Miscellaneous Refunds

Grants, benefits and claims.....	\$	30,000.00
Total	\$	30,000.00

Subdivision 40.

Boys' and Girls' Club Work—County Fairs

Grants, benefits and claims.....	\$	21,200.00
Total	\$	21,200.00

(Limited to \$200.00 per county per year to be paid to the county agent in each county.)

Subdivision 41.

Soil Conservation Committee and Districts

Salaries and wages	\$ 29,831.00
Fees and services	41,525.00
Supplies and materials	5,175.00
Equipment	750.00
Grants to conservation districts	40,000.00
(Limited to \$3,000.00 per district per year)	
Total	\$ 117,281.00

Subdivision 42.

State Geological Survey

Salaries and wages	\$ 388,182.00
Fees and services	55,000.00
Supplies and materials	46,822.00
Equipment	16,000.00
Total	\$ 506,004.00

Subdivision 43.

North Dakota Firemen's Association

Grants, benefits and claims.....	\$ 10,000.00
Total	\$ 10,000.00

Subdivision 44.

North Dakota Indian Affairs Commission

Salaries and wages	\$ 26,225.00
Fees and services	3,386.00
Supplies and materials	389.00
Total	\$ 30,000.00

Subdivision 45.

State Commission on Alcoholism

Salaries and wages	\$ 58,670.00
Fees and services	19,948.00
Supplies and materials	7,000.00
Equipment	1,500.00
Total	\$ 87,118.00

Subdivision 46.

Commissioner of Insurance

Salaries and wages	\$ 261,794.00
Fees and services	54,820.00
Supplies and materials	8,000.00
Equipment	2,000.00
Total	\$ 326,614.00

Subdivision 47.

State Fire Marshal

Salaries and wages	\$ 58,750.00
Fees and services	21,000.00
Supplies and materials	2,000.00
Equipment	3,600.00
Total	\$ 85,350.00

Subdivision 48.

Labor Department

Salaries and wages	\$ 101,216.00
(Including commissioner's salary not to exceed \$22,000.00 for the biennium)	
Fees and services	42,100.00
Supplies and materials	5,000.00
Equipment	5,000.00
Total	\$ 153,316.00

Subdivision 49.

Theodore Roosevelt Rough Rider Award

Grants, benefits and claims.....	\$	500.00
Total	\$	500.00

Subdivision 50.

Athletic Commission

Salaries and wages	\$	1,200.00
Fees and services		800.00
Supplies and materials		400.00
Total	\$	2,400.00

Subdivision 51.

Yellowstone-Missouri Fort Union Commission

Fees and services	\$	1,000.00
Total	\$	1,000.00
Grand total	\$	59,228,922.00

§ 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. **Appropriation.**) The moneys herein appropriated in accordance with budget categories for salaries and wages pertaining to workload change, different services, or added facilities shall be made available only after certification to the executive office of the budget that such changes, services, or facilities have been added, or that newly anticipated employees are actually in the employ of the state.

§ 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 on such items or subdivisions as are designated to be made available immediately on passage and approval.

Not approved or disapproved by governor.

Filed March 3, 1967.

CHAPTER 2

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

JUDICIAL BUDGET

AN ACT

To appropriate money for the expenses of the judicial branch of government, specifying the amount and time for which such appropriation 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.

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

§ 1. Appropriation for the Judicial Department of State Government.) There is hereby appropriated out of the general fund in the state treasury to the judicial branch of state government, not otherwise appropriated, for the purpose specified in the following sections of this bill.

§ 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, 1967, and ending June 30, 1969, to wit:

§ 3. Appropriation.)

Subdivision 1.

Supreme Court

Salaries and wages.....	\$ 319,518.00
Fees and services.....	7,000.00
Supplies and materials.....	2,700.00
Equipment	2,500.00
Judges' retirement	37,000.00
Total	\$ 368,718.00

Subdivision 2.

Supreme Court Reporter and Law Librarian

Salaries and wages.....	\$ 23,340.00
Fees and services.....	1,750.00

Supplies and materials.....	15,650.00
Equipment	300.00
Total	\$ 41,040.00

Subdivision 3.

Judges of District Court

Salaries and wages.....	\$ 623,452.00
Fees and services.....	50,000.00
Judges' retirement	107,900.00
Total	\$ 781,352.00
Grand total	\$1,191,100.00

Approved March 14, 1967.

CHAPTER 3

S. B. No. 3

(Committee on Appropriations)

LEGISLATIVE BUDGET

AN ACT

To appropriate money for the expenses of the legislative branch of government, specifying the amount and time for which such appropriation 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. Appropriation for the Legislative Department of State Government.) There is hereby appropriated out of the general fund in the state treasury to the legislative branch of state government, not otherwise appropriated, for the purpose specified in the following sections of this bill.

§ 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 several purposes herein set out, during the fiscal period of two years beginning July 1, 1967, and ending June 30, 1969, to wit:

§ 3. Appropriation.)

Subdivision 1.

Biennium and Fortieth and Forty-first Legislative Assemblies

Salaries and wages.....	\$ 140,000.00
Fees and services.....	400,000.00
Additional expense of legislators for Fortieth Legislative Session pursuant to Senate Bill 405	44,100.00
The above-lined item 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.	
Pre-session conference	25,600.00
Supplies and materials.....	100,000.00
Supplies and materials, Fortieth Legislative Assembly	20,000.00
The above line item 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.	
Expenses of committee created pursuant to House Concurrent Resolution B-2.....	5,000.00
Total	<u>\$ 734,700.00</u>

Subdivision 2.

Legislative Audit and Fiscal Review Committee

Salaries and wages.....	\$ 7,870.00
Fees and services.....	6,541.00
Supplies and materials.....	500.00
Equipment	400.00
Total	<u>\$ 15,311.00</u>

Subdivision 3.

Legislative Research Committee

Salaries and wages.....	\$ 217,116.00
Fees and services.....	104,170.00
Supplies and materials.....	8,000.00
Equipment	2,000.00
Total	<u>\$ 331,286.00</u>
Grand total	<u>\$1,081,297.00</u>

§ 4. **Appropriation.)** The director of accounts and purchases and the state treasurer shall make such transfers of funds between lined items of appropriation for the legislative research committee as may be requested by the chairman of such committee upon a finding by such chairman that the nature of studies and duties assigned to the committee requires such transfers in properly carrying on the committee's functions.

Approved March 14, 1967.

CHAPTER 4

S. B. No. 4

(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.

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

§ 1. **Appropriation for the State School for the Blind.)** There is hereby appropriated out of the school for the blind operating fund in the state treasury the sum of \$286,087.00 or so much thereof as may be necessary for the operation, maintenance, repairs, improvements, and general expense of the school for the blind at Grand Forks for the biennium beginning July 1, 1967, and ending June 30, 1969, as follows:

Salaries and wages.....	\$219,303.00
Fees and services.....	27,030.00
Supplies and materials.....	28,254.00
Equipment	3,000.00
Land, structures and major improvements:	
Paving driveway and sidewalk.....	8,500.00
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Total	\$286,087.00
Less estimated income.....	56,000.00
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General fund transfer and appropriation.....	\$230,087.00

§ 2. **Appropriation.)** If the sum available in the school for the blind operating fund, from income and the general fund appropriation in section 1 of this Act, is less than the total

appropriation of \$286,087.00, the difference between the total appropriation and the sum available in such operating fund is hereby appropriated from any unappropriated funds in the general fund in the state treasury.

Approved February 11, 1967.

CHAPTER 5

S. B. No. 5

(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.

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

§ 1. Appropriation for the State School for the Deaf.)

There is hereby appropriated out of the school for the deaf operating fund in the state treasury the sum of \$661,405.00, or so much thereof, as may be necessary for the operation, maintenance, repairs, improvements, and general expense of the school for the deaf at Devils Lake for the biennium beginning July 1, 1967, and ending June 30, 1969, as follows:

Salaries and wages.....	\$493,875.00
Fees and services.....	44,820.00
Supplies and materials.....	111,210.00
Equipment	8,500.00

Land, structures and major improvements:

Carpet primary and intermediate classrooms....	3,000.00
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Total	\$661,405.00
Less estimated income.....	97,527.00

General fund transfer and appropriation.....\$563,878.00

§ 2. Appropriation.) If the sum available in the school for the deaf operating fund, from income and the general fund appropriation in section 1 of this Act, is less than the total appropriation of \$661,405.00, the difference between the total appropriation and the sum available in such operating fund is hereby appropriated from any unappropriated funds in the general fund in the state treasury.

Approved February 21, 1967.

CHAPTER 6

S. B. No. 6

(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.) There is hereby appropriated out of the Grafton state school operating fund in the state treasury the sum of \$5,309,515.00, or so much thereof as may be necessary for the operation, maintenance, repairs, improvements, and general expense of the Grafton state school for the biennium beginning July 1, 1967, and ending June 30, 1969, as follows:

Salaries and wages.....	\$3,958,600.00
Fees and services.....	210,750.00
Supplies and materials.....	878,750.00
Equipment	198,400.00
Land, structures and major improvements:	
Rebuild tunnels	41,400.00
Plaster ceiling in west hall.....	21,615.00
Total	<u>\$5,309,515.00</u>
Less estimated income.....	<u>\$ 621,000.00</u>

General fund transfer and appropriation...\$4,688,515.00

§ 2. Appropriation.) If the sum available in the Grafton state school operating fund, from income and the general fund appropriation in section 1 of this Act, is less than the total appropriation of \$5,309,515.00, the difference between the total appropriation and the sum available in such operating fund is hereby appropriated from any unappropriated funds in the general fund in the state treasury.

§ 3. Appropriation.) The moneys herein appropriated in accordance with budget categories for salaries and wages pertaining to workload change, different services, or added facilities shall be made available only after certification to the executive office of the budget that such changes, services, or facilities have been added, or that newly anticipated employees are actually in the employ of the state.

Approved March 14, 1967.

CHAPTER 7

S. B. No. 7
(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 Tuberculosis Sanatorium.)

There is hereby appropriated out of the tuberculosis sanatorium operating fund in the state treasury the sum of \$2,330,662.00, or so much thereof, as may be necessary for the operation, maintenance, repairs, improvements, and general expense of the tuberculosis sanatorium at San Haven for the biennium beginning July 1, 1967, and ending June 30, 1969, as follows:

Salaries and wages.....	\$1,897,337.00
Fees and services.....	84,000.00
Supplies and materials.....	502,025.00
Equipment	58,800.00
Land, structures and major improvements:	
Remodel roofs on Units I and II.....	7,500.00
Reseal road	7,000.00
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Total	\$2,556,662.00
Less estimated income.....	226,000.00
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General fund transfer and appropriation....	\$2,330,662.00

§ 2. Appropriation.) If the sum available in the tuberculosis sanatorium operating fund, from income and the general fund appropriation in section 1 of this Act, is less than the total appropriation of \$2,330,662.00, the difference between the total appropriation and the sum available in such operating fund is hereby appropriated from any unappropriated funds in the general fund in the state treasury.

Approved March 14, 1967.

CHAPTER 8

S. B. No. 8
 (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.) There is hereby appropriated out of the state hospital operating fund in the state treasury the sum of \$9,506,029.00, or so much thereof, as may be necessary for the operation, maintenance, repairs, improvements, and general expense of the state hospital at Jamestown for the biennium beginning July 1, 1967, and ending June 30, 1969, as follows:

Salaries and wages.....	\$6,094,742.00
Fees and services.....	371,000.00
Supplies and materials.....	1,794,867.00
Equipment	245,420.00
Land, structures and major improvements:	
Remodel dietary	100,000.00
Adolescent treatment center building.....	900,000.00

Provided, however, the \$900,000.00 hereby appropriated for the adolescent treatment center building shall be reduced by such amounts as may be made available by the federal government for the construction of such building.

Total	\$9,506,029.00
Less estimated income.....	3,800,000.00

General fund transfer and appropriation...\$5,706,029.00

§ 2. Appropriation.) If the sum available in the state hospital operating fund, from income and the general fund appropriation in section 1 of this Act, is less than the total appropriation of \$9,506,029.00, the difference between the total appropriation and the sum available in such operating fund is hereby appropriated from any unappropriated funds in the general fund in the state treasury.

§ 3. Appropriation.) The moneys herein appropriated in accordance with budget categories for salaries and wages pertaining to workload change, different services, or added facilities shall be made available only after certification to the executive office of the budget that such changes, services, or facilities have been added, or that newly anticipated employees are actually in the employ of the state.

Approved March 14, 1967.

CHAPTER 9

S. B. No. 9

(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.

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

§ 1. Appropriation for the State Industrial School.) There is hereby appropriated out of the industrial school operating fund in the state treasury the sum of \$1,207,994.00, or so much thereof as may be necessary for the operation, maintenance, repairs, improvements, and general expense of the state industrial school for the biennium beginning July 1, 1967, and ending June 30, 1969, as follows:

Salaries and wages.....	\$ 840,279.00
Fees and services.....	129,409.00
Supplies and materials.....	194,206.00
Equipment	20,000.00
Land, structures and major improvements:	
Dakota hall rewiring.....	6,500.00
Replace power house roof.....	8,500.00
Plant improvements	9,100.00
Total	\$1,207,994.00
Less estimated income.....	140,000.00
General fund transfer and appropriation....	\$1,067,994.00

§ 2. Appropriation.) If the sum available in the state industrial school operating fund, from income and the general fund appropriation in section 1 of this Act, is less than the

total appropriation of \$1,207,994.00, the difference between the total appropriation and the sum available in such operating fund is hereby appropriated from any unappropriated funds in the general fund in the state treasury.

§ 3. Appropriation.) The moneys herein appropriated in accordance with budget categories for salaries and wages pertaining to workload change, different services, or added facilities shall be made available only after certification to the executive office of the budget that such changes, services, or facilities have been added, or that newly anticipated employees are actually in the employ of the state.

Approved February 21, 1967.

CHAPTER 10

S. B. No. 10

(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 and state farm.

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

§ 1. Appropriation for the State Penitentiary.) There is hereby appropriated out of the state penitentiary operating fund in the state treasury the sum of \$1,559,143.00, or so much thereof as may be necessary for the operation, maintenance, repairs, improvements, and general expense of the state penitentiary and state farm for the biennium beginning July 1, 1967, and ending June 30, 1969, as follows:

Salaries and wages.....	\$1,018,143.00
Fees and services.....	222,500.00
Supplies and materials.....	278,500.00
Equipment	35,000.00
Replastering bricks outside walls.....	5,000.00
<hr/>	
Total	\$1,559,143.00
Less estimated income.....	50,000.00
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General fund transfer and appropriation....	\$1,509,143.00

§ 2. Appropriation.) If the sum available in the state penitentiary operating fund, from income and the general fund appropriation in section 1 of this Act, is less than the total appropriation of \$1,559,143.00, the difference between the total appropriation and the sum available in such operating fund is hereby appropriated from any unappropriated funds in the general fund in the state treasury.

§ 3. Appropriation.) The moneys herein appropriated in accordance with budget categories for salaries and wages pertaining to workload change, different services, or added facilities shall be made available only after certification to the executive office of the budget that such changes, services, or facilities have been added, or that newly anticipated employees are actually in the employ of the state.

Approved February 27, 1967.

CHAPTER 11

S. B. No. 11

(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 for the Tag and Sign Plant.) There is hereby appropriated out of the state penitentiary operating fund in the state treasury the sum of \$396,540.00, or so much thereof as may be necessary for the operation, maintenance, repairs, improvements, and general expense of the tag and sign plant at the state penitentiary for the biennium beginning July 1, 1967, and ending June 30, 1969, as follows:

Salaries and wages.....	\$ 33,540.00
Fees and services.....	11,000.00
Supplies and materials.....	352,000.00
	<hr/>
Total	\$396,540.00
Less estimated income.....	190,000.00
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Total general fund transfer and appropriation	\$206,540.00

§ 2. Appropriation.) If the sum available in the state penitentiary operating fund, from income and the general fund appropriation in section 1 of this Act, is less than the total appropriation of \$396,540.00, the difference between the total appropriation and the sum available in such operating fund is hereby appropriated from any unappropriated funds in the general fund in the state treasury.

Approved February 21, 1967.

CHAPTER 12

S. B. No. 12

(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 the state penitentiary operating fund in the state treasury the sum of \$939,812.00, or so much thereof as may be necessary for the operation, maintenance, repairs, improvements, and general expense of the North Dakota twine and cordage plant at the state penitentiary for the biennium beginning July 1, 1967, and ending June 30, 1969, as follows:

Salaries and wages.....	\$154,612.00
Fees and services.....	49,200.00
Supplies and materials.....	700,000.00
Equipment	25,000.00
Repair twine plant buildings.....	6,000.00
Grants, benefits and claims.....	5,000.00
<hr/>	
Total	\$939,812.00
Less estimated income.....	900,000.00
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General fund transfer and appropriation	\$ 39,812.00

§ 2. Appropriation.) If the sum available in the state penitentiary operating fund, from income and the general fund appropriation in section 1 of this Act, is less than the total appropriation of \$939,812.00, the difference between the total

appropriation and the sum available in such operating fund is hereby appropriated from any unappropriated funds in the general fund in the state treasury.

§ 3. Appropriation.) The moneys herein appropriated in accordance with budget categories for salaries and wages pertaining to workload change, different services, or added facilities shall be made available only after certification to the executive office of the budget that such changes, services, or facilities have been added, or that newly anticipated employees are actually in the employ of the state.

Approved February 21, 1967.

CHAPTER 13

S. B. No. 13

(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 \$278,487.00, 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, 1967, and ending June 30, 1969, to wit:

Salaries and wages.....	\$206,487.00
Fees and services.....	36,000.00
Supplies and materials.....	13,500.00
Equipment	2,500.00
Emergency	20,000.00
Total	\$278,487.00

***Note:** This bill was vetoed by the governor on February 23, 1967, and subsequently approved by a two-thirds majority of the members of the House of Representatives and the Senate on February 25, 1967.

Filed March 13, 1967.

CHAPTER 14

S. B. No. 14
(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 \$100,100.00, 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 period beginning July 1, 1967, through December 31, 1967, to wit:

Salaries and wages.....	\$ 25,000.00
(Including salary of hail department manager, not to exceed \$4,500.00 for the period from July 1, 1967, through December 31, 1967).	
Fees and services.....	23,000.00
Supplies and materials.....	2,000.00
Equipment	100.00
Emergency	50,000.00
Total	<u>\$100,100.00</u>

Approved March 14, 1967.

CHAPTER 15

S. B. No. 15
(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 \$127,000.00, 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, 1967, and ending June 30, 1969, to wit:

Salaries and wages.....	\$ 74,500.00
Fees and services.....	30,000.00
Supplies and materials.....	3,000.00
Equipment	2,500.00
Premium refunds	17,000.00
Total	<u>\$127,000.00</u>

Approved February 21, 1967.

CHAPTER 16

S. B. No. 16
(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 \$20,700.00, 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, 1967, and ending June 30, 1969, to wit:

Salaries and wages.....	\$ 17,500.00
Fees and services.....	1,700.00
Supplies and materials.....	1,000.00
Equipment	500.00
 Total	 \$ 20,700.00

Approved February 21, 1967.

CHAPTER 17

S. B. No. 17

(Committee on Appropriations)

VOCATIONAL EDUCATION

AN ACT

Making an appropriation to the state board of public school education for the administration and supervision of grants for vocational agriculture, vocational home economics, office and distributive education, trade and industrial education, and manpower development and training.

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 \$547,770.00, or so much thereof as is necessary for the administration and supervision of grants for vocational agriculture, vocational home economics, office and distributive education, trade and industrial education, and manpower development and training, as provided for in section 15-40-04 as amended, of the North Dakota Century Code, for the biennium beginning July 1, 1967, and ending June 30, 1969, to wit:

Salaries and wages.....	\$ 82,158.00
Fees and services.....	18,032.00
Supplies and materials.....	4,750.00
Equipment	2,830.00
Grants, benefits and claims:	
Vocational agriculture	160,000.00
Office and distributive education.....	100,000.00
Home economics	150,000.00
Manpower development and training.....	30,000.00
 Total	 \$547,770.00

Approved March 2, 1967.

CHAPTER 18

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

VOCATIONAL REHABILITATION DIVISION

AN ACT

Making an appropriation for salaries, and expenses of the division of vocational rehabilitation for rehabilitating disabled persons.

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

§ 1. **Appropriation.**) There is hereby appropriated out of any unappropriated funds in the vocational rehabilitation division operating fund in the state treasury the sum of \$2,017,534.00, of which \$1,513,150.00 is derived from income and collections and \$504,384.00 from the general fund in the state treasury, or so much thereof as is necessary for the vocational rehabilitation of disabled persons, for the biennium beginning July 1, 1967, and ending June 30, 1969, to wit:

Salaries and wages.....	\$ 567,477.00
Fees and services.....	161,850.00
Supplies and materials.....	16,140.00
Equipment	16,206.00
Grants, benefits and claims:	
Case services	1,255,861.00
Total	\$2,017,534.00
Less estimated income.....	1,513,150.00
Total general fund.....	\$ 504,384.00

§ 2. **Appropriation.**) The moneys herein appropriated in accordance with budget categories for salaries and wages pertaining to workload change, different services, or added facilities shall be made available only after certification to the executive office of the budget that such changes, services, or facilities have been added, or that newly anticipated employees are actually in the employ of the state.

Approved February 22, 1967.

CHAPTER 19

S. B. No. 19
 (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.

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 \$130,892.00, 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, 1967, and ending June 30, 1969, to wit:

Salaries and wages.....	\$ 71,000.00
Fees and services.....	52,900.00
Supplies and materials.....	4,992.00
Equipment	2,000.00
	<hr/>
Total	\$130,892.00

Approved February 21, 1967.

CHAPTER 20

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

DIVISION OF SUPERVISED CORRESPONDENCE STUDY

AN ACT

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

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

§ 1. Appropriation.) There is hereby appropriated out of any unappropriated funds in the general fund in the state treasury, the sum of \$314,706.00, or so much thereof as may be necessary to supplement the appropriation for the division of supervised correspondence study provided for in section 2 of this Act, for the biennium beginning July 1, 1967, and ending June 30, 1969.

§ 2. Appropriation.) There is hereby appropriated out of any unappropriated funds in the division of supervised correspondence study operating fund in the state treasury, and the sum of \$338,500.00, or so much thereof as may be necessary, derived from income and collections, supplemented as needed by the appropriation in section 1 of this Act upon the approval of the director of the department of accounts and purchases, to pay salaries and miscellaneous expenses of the division of supervised correspondence study for the biennium beginning July 1, 1967, and ending June 30, 1969, as follows:

Salaries and wages.....	\$390,856.00
Fees and services.....	167,955.00
Supplies and materials.....	75,395.00
Equipment	19,000.00
Total	\$653,206.00
Less estimated income.....	338,500.00
Total general fund.....	\$314,706.00

§ 3. Transfer of Funds Between Line Items.) The board of public school education may authorize the expenditure of funds included within any line item of the total operating budget for any purpose authorized by any other line item included within the total operating budget for a given institution.

Approved February 27, 1967.

CHAPTER 21

S. B. No. 21
(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 \$100,000.00, 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, 1967, and ending June 30, 1969, to wit:

Salaries and wages.....	\$ 83,500.00
Fees and services.....	15,000.00
Supplies and materials.....	1,500.00
Total	<u>\$100,000.00</u>

Approved March 14, 1967.

CHAPTER 22

S. B. No. 22

(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 general fund in the state treasury, not otherwise appropriated, the sum of \$20,000.00 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, 1967, and ending June 30, 1969, to wit:

Fees and services.....	\$ 20,000.00
Total	\$ 20,000.00

Approved February 15, 1967.

CHAPTER 23

S. B. No. 23

(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 the sum of \$898,641.00, from the seed department fund, and the sum of \$46,700.00 out of the general fund in the state treasury, or so much thereof as may be necessary for salaries and expenses

for the state seed department, as provided for in chapters 4-09, 4-10 and 4-11, North Dakota Century Code, for the biennium beginning July 1, 1967, and ending June 30, 1969, to wit:

Salaries and wages.....	\$586,921.00
Fees and services.....	233,920.00
Supplies and materials.....	53,500.00
Equipment	21,000.00
Emergency	50,000.00
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Total	\$945,341.00
Less seed department income.....	898,641.00
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General fund appropriation.....	\$ 46,700.00

Approved February 21, 1967.

CHAPTER 24

S. B. No. 24

(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.

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

§ 1. Appropriation.) There is hereby appropriated out of any unappropriated funds in the general fund in the state treasury, the sum of \$398,196.00, or so much thereof as may be necessary to supplement the appropriation provided for in section 2 of this Act, for the biennium beginning July 1, 1967, and ending June 30, 1969.

§ 2. Appropriation.) There is hereby appropriated out of any unappropriated funds in the national guard operating fund in the state treasury the sum of \$209,140.00, derived from income, collections and reimbursements of the North Dakota national guard from the United States and from armory rentals, supplemented as needed by the appropriation in section 1 of this Act upon request of the adjutant general and approval of the director of the department of accounts and purchases for the maintenance of the national guard as provided in title

37 of the North Dakota Century Code for the biennium beginning July 1, 1967, and ending June 30, 1969, as follows:

Salaries and wages.....	\$167,778.00
Fees and services.....	299,590.00
Supplies and materials.....	124,400.00
Equipment	10,868.00
Land, structures and major improvements:	
Rebuild electric distribution system at	
Fraire Barracks	4,700.00
 Total	 \$607,336.00
Less estimated income	209,140.00
 Total general fund	 \$398,196.00

§ 3. **Appropriation.**) The moneys herein appropriated in accordance with budget categories for salaries and wages pertaining to workload change, different services, or added facilities shall be made available only after certification to the executive office of the budget that such changes, services, or facilities have been added, or that newly anticipated employees are actually in the employ of the state.

Approved February 21, 1967.

CHAPTER 25

S. B. No. 25

(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 unappropriated funds in the state library commission operating fund in the state treasury the sum of \$1,023,400.00, of which \$849,000.00 is derived from income and collections and \$174,400.00 from the general fund in the state treasury, to be expended as provided for in chapter 54-24 of the North Dakota Century Code, for the biennium beginning July 1, 1967, and ending June 30, 1969, to wit:

Salaries and wages	\$ 178,200.00
Fees and services	41,000.00
Supplies and materials	80,000.00
Equipment	24,200.00
Grants, benefits and claims.....	700,000.00
Total for biennium	\$1,023,400.00
Less estimated income	849,000.00
Total general fund	\$ 174,400.00

Approved March 14, 1967.

CHAPTER 26

S. B. No. 26
(Committee on Appropriations)

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 fund in the state treasury, not otherwise appropriated, the sum of \$76,320.00, 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, 1967, and ending June 30, 1969, as follows:

Salaries and wages.....	\$ 22,000.00
Fees and services.....	19,320.00
Supplies and materials.....	30,000.00
Grants, benefits and claims.....	5,000.00
Total	\$ 76,320.00

Approved March 14, 1967.

CHAPTER 27

S. B. No. 27
(Committee on Appropriations)

UNSATISFIED JUDGMENT FUND

AN ACT

Making an appropriation for salaries and other expenses for administering the provisions of chapter 39-17 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 unappropriated funds in the unsatisfied judgment fund in the state treasury, the sum of \$70,000.00, or so much thereof as may be necessary for salaries and expenses in administering the provisions of chapter 39-17 of the North Dakota Century Code, for the biennium beginning July 1, 1967, and ending June 30, 1969, as follows:

Salaries and wages	\$37,000.00
Fees and services	20,000.00
Supplies and materials	2,000.00
Equipment	1,000.00
Contingent	10,000.00
 Total	 \$70,000.00

Approved February 21, 1967.

CHAPTER 28

S. B. No. 28
(Committee on Appropriations)

PREDATORY ANIMAL CONTROL

AN ACT

Making an appropriation for salaries and expenses for predatory animal control to the commissioner of agriculture.

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

§ 1. Appropriation.) There is hereby appropriated out of any unappropriated funds in the general fund in the state treasury, the sum of \$81,610.00, or so much thereof as may be

necessary for salaries and expenses for predatory animal control, to the commissioner of agriculture, for the biennium beginning July 1, 1967, and ending June 30, 1969, as follows:

Salaries and wages.....	\$ 37,930.00
Fees and services.....	41,680.00
Supplies and materials.....	2,000.00
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Total	\$ 81,610.00

Approved February 21, 1967.

CHAPTER 29

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

NORTH DAKOTA NATIONAL GUARD—CONSTRUCTION

AN ACT

Making an appropriation to the North Dakota national guard for the construction of a radio communications and emergency center to be established at Fraine Barracks.

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

§ 1. Appropriation.) There is hereby appropriated out of any unappropriated funds in the general fund in the state treasury to the North Dakota national guard, the sum of \$75,000.00, along with federal funds and insurance funds to be used for the construction of a radio communications and emergency center to be established at Fraine Barracks.

Approved February 21, 1967.

CHAPTER 30

S. B. No. 54
(Committee on Appropriations)

OUTDOOR RECREATION AGENCY

AN ACT

Making an appropriation to the state outdoor recreation agency for funding the planning, acquisition and development of outdoor recreation agencies and activities.

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

§ 1. Appropriation.) There is hereby appropriated to the state outdoor recreation agency out of any moneys in the general fund in the state treasury not otherwise appropriated, the sum of \$400,000.00, or so much thereof as is necessary for the funding, planning, acquisition and development of outdoor recreation and activities, for the biennium beginning July 1, 1967, and ending June 30, 1969, to wit:

Salaries and wages.....	\$ 69,662.00
Fees and services.....	40,800.00
Supplies and materials.....	15,600.00
Equipment	8,400.00
Grants	265,538.00
Total	<u>\$400,000.00</u>

Approved March 14, 1967.

CHAPTER 31

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

STATE INSTITUTIONS OF HIGHER LEARNING

AN ACT

Making an appropriation for the general operation, 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.) There is hereby appropriated the sums hereafter specified, derived from institutional income and institutional collections, and derived from rent, interest, or income from land, money or property donated or granted by the United States and allocated to the institutions of higher learning under the terms of the Enabling Act and the state Constitution, and such additional unappropriated funds as specified, are hereby appropriated out of the general fund in the state treasury as may be necessary to pay the operation, maintenance, plant improvements, and general expenses of each of the institutions hereinafter named, in the sums set forth as follows:

University of North Dakota

Salaries and wages	\$13,629,167.00
Fees and services	1,254,282.00
Supplies and materials	1,440,249.00
Equipment	425,678.00
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Total operating budget	\$16,749,376.00
Less estimated income	5,694,542.00
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Net operating budget	\$11,054,834.00
Land, structures and major improvements:	
Land purchase	6,000.00
Power plant renovation and completion ...	175,000.00
Furniture and equipment for dormitories and housing	230,000.00
Special assessments	50,000.00
Plant improvements	100,000.00
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Total general fund	\$11,615,834.00

University of North Dakota Medical Center

Salaries and wages	\$ 1,858,643.00
Fees and services	44,758.00
Supplies and materials	183,790.00
Equipment	23,900.00
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Total operating budget	\$ 2,111,091.00
Less estimated income	1,482,609.00
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Total general fund	\$ 628,482.00

The North Dakota State University of Agriculture and Applied Science

Salaries and wages	\$11,140,025.00
Fees and services	1,139,256.00
Supplies and materials	1,234,925.00
Equipment	553,785.00
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Total operating budget	\$14,067,991.00
Less estimated income	5,280,132.00
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Net operating budget	\$ 8,787,859.00
Land, structures, and major improvements:	
Special assessments	27,300.00
Furniture and equipment for dormitories and housing	150,000.00
Storm sewer	28,000.00
Plant improvements	100,000.00
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Total general fund	\$ 9,093,159.00

State School of Forestry, Bottineau

Junior college division:	
Salaries and wages	\$ 601,422.00
Fees and services	51,326.00
Supplies and materials	104,117.00
Equipment	28,804.00
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Total operating budget	\$ 785,669.00
Less estimated income	235,813.00
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Net junior college operating budget	\$ 549,856.00
North Dakota forest service, Bottineau:	
Salaries and wages	\$ 314,809.00
Fees and services	40,793.00

Supplies and materials	43,989.00
Equipment	31,915.00
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Total operating budget	\$ 431,506.00
Less estimated income	199,420.00
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Net forest service operating budget	\$ 232,086.00
Net appropriation (junior college and forest service)	\$ 781,942.00
Total general fund	\$ 781,942.00

University of North Dakota—Ellendale Branch

Salaries and wages	\$ 939,069.00
Fees and services	68,614.00
Supplies and materials	106,866.00
Equipment	57,275.00
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Total operating budget	\$ 1,171,824.00
Less estimated income	282,164.00
	<hr/>
Net operating budget general fund	\$ 889,660.00

State School of Science, Wahpeton

Salaries and wages	\$ 3,844,142.00
Fees and services	277,795.00
Supplies and materials	597,900.00
Equipment	364,354.00
	<hr/>
Total operating budget	\$ 5,084,191.00
Less estimated income	2,186,223.00
	<hr/>
Net operating budget	\$ 2,897,968.00
Land, structures and major improvements:	
Remodel tech building	35,000.00
Land purchase	47,000.00
Special assessments	60,000.00
Plant improvements	175,000.00
	<hr/>
Total general fund	\$ 3,214,968.00

Dickinson State College

Salaries and wages	\$ 2,201,554.00
Fees and services	274,563.00

Supplies and materials	183,103.00
Equipment	142,493.00
Total operating budget	\$ 2,801,713.00
Less estimated income	1,058,832.00
Net operating budget	\$ 1,742,881.00
Land, structures and major improvements:	
Furniture and equipment for dormitories and housing	20,000.00
Special assessments	89,400.00
Plant improvements	50,000.00
Total general fund	\$ 1,902,281.00

Minot State College

Salaries and wages	\$ 3,965,265.00
Fees and services	226,979.00
Supplies and materials	292,156.00
Equipment	147,666.00
Total operating budget	\$ 4,632,066.00
Less estimated income	1,557,981.00
Net operating budget	\$ 3,074,085.00
Land, structures and major improvements:	
Special assessments	78,750.00
Land	65,000.00
Plant improvements	25,000.00
Maintenance building	50,000.00
Total general fund	\$ 3,292,835.00

Mayville State College

Salaries and wages	\$ 1,600,197.00
Fees and services	158,987.00
Supplies and materials	154,571.00
Equipment	76,411.00
Total operating budget	\$ 1,990,166.00
Less estimated income	651,050.00
Net operating budget	\$ 1,339,116.00
Land, structures and major improvements:	
New boiler	110,000.00
Replace heat line	16,000.00
Total general fund	\$ 1,465,116.00

Valley City State College

Salaries and wages	\$ 2,180,969.00
Fees and services	198,792.00
Supplies and materials	210,598.00
Equipment	139,980.00
Total operating budget	\$ 2,730,339.00
Less estimated income	916,678.00
Net operating budget	\$ 1,813,661.00
Land, structures and major improvements:	
Steam lines	56,200.00
Special assessments	18,750.00
Land	70,000.00
Plant improvements	50,000.00
Total general fund	\$ 2,008,611.00
Grand total all institutions of higher learning	\$34,892,888.00

There is hereby appropriated to Minot state college any federal funds available for the construction of a greenhouse as an attachment to the existing science building located on the campus of Minot state college. Any additional income not required by law to be deposited in the operating fund in the state treasury is hereby appropriated. All income in excess of estimated income in the budget requests of the institutions of higher learning must be deposited in their operating fund in the state treasury and can be expended only by authorization of the emergency commission.

§ 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, 1967, and ending June 30, 1969.

§ 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.

§ 4. Appropriation.) There is hereby appropriated out of any moneys in the state treasury the sum of \$130,000.00 or so much thereof as may be necessary to the state board of higher

education to be transferred as needed and required to the respective operating funds of colleges and universities under the board's control for making payments to faculty members of these colleges and universities who are on sabbatical leave approved by the board of higher education during the biennium beginning July 1, 1967, and ending June 30, 1969.

§ 5. New Programs and Activities.) No new programs or departments shall be commenced at any institution of higher learning under the control of the board of higher education during the biennium beginning July 1, 1967, and ending June 30, 1969, until the board of higher education shall first report such proposed new courses, programs and activities in writing to the subcommittee on budget of the legislative research committee. The board shall in addition thereto provide such additional information to such subcommittee in regard thereto as it may request. The legislative research committee shall report upon such new courses, programs and activities to the Forty-first Legislative Assembly.

Approved March 15, 1967.

CHAPTER 32

H. B. No. 502

(Committee on Appropriations)

EXTENSION DIVISION AND EXPERIMENT STATIONS

AN ACT

Making an appropriation for the general operation, maintenance, and improvements of the extension division and experiment stations of North Dakota state university of agriculture and applied science.

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

§ 1. Appropriation.) There is hereby appropriated by sums hereafter specified, derived from income, and such additional unappropriated funds as specified, are hereby appropriated out of the general fund in the state treasury as may be necessary to pay the operation, maintenance and improvements of each of the institutions hereinafter named, in sums set forth as follows:

Extension Division

Salaries and wages	\$4,036,818.00
(Including sugar beet specialist and potato specialist positions)	
Fees and services	472,479.00

Supplies and materials	205,019.00
Equipment	64,078.00
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Total operating budget	\$4,778,394.00
Less estimated income	3,526,389.00
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Total general fund	\$1,252,005.00

Experiment Station—Main Station

Salaries and wages	\$4,334,142.00
Fees and services	692,991.00
Supplies and materials	613,492.00
Equipment	193,560.00
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Total operating budget	\$5,834,185.00
Less estimated income	2,362,365.00
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Net operating budget	\$3,471,820.00
Land, structures and major improvements:	
Land purchase	41,000.00
2 greenhouses	180,000.00
Field crops research laboratory	420,000.00
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Total general fund	\$4,112,820.00

Dickinson Experiment Station

Salaries and wages	\$ 154,700.00
Fees and services	37,087.00
Supplies and materials	84,965.00
Equipment	7,800.00
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Total operating budget	\$ 284,552.00
Less estimated income	100,000.00
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Total general fund	\$ 184,552.00

Edgeley Experiment Station

Salaries and wages	\$ 31,510.00
Fees and services	7,654.00
Supplies and materials	6,908.00
Equipment	4,400.00
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Total operating budget	\$ 50,472.00
Less estimated income	8,000.00
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Total general fund	\$ 42,472.00

Hettinger Experiment Station

Salaries and wages	\$ 35,319.00
Fees and services	10,300.00
Supplies and materials	10,371.00
Equipment	3,800.00
<hr/>	
Total operating budget	\$ 59,790.00
Less estimated income	16,000.00
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Total general fund	\$ 43,790.00

Langdon Experiment Station

Salaries and wages	\$ 35,905.00
Fees and services	5,424.00
Supplies and materials	7,886.00
Equipment	5,600.00
<hr/>	
Total operating budget	\$ 54,815.00
Less estimated income	10,000.00
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Total general fund	\$ 44,815.00

North Central Experiment Station

Salaries and wages.....	\$ 78,206.00
Fees and services.....	20,473.00
Supplies and materials.....	20,875.00
Equipment	16,000.00
<hr/>	
Total operating budget	\$ 135,554.00
Less estimated income.....	95,000.00
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Total general fund.....	\$ 40,554.00

Williston Experiment Station

Salaries and wages.....	\$ 64,940.00
Fees and services.....	16,223.00
Supplies and materials.....	17,732.00
Equipment	8,200.00
<hr/>	
Total operating budget	\$ 107,095.00
Less estimated income.....	22,000.00
<hr/>	
Total general fund.....	\$ 85,095.00

Carrington Experiment Station

Salaries and wages.....	\$ 98,231.00
Fees and services.....	29,676.00

Supplies and materials.....	40,533.00
Equipment	15,550.00
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Total operating budget	\$ 183,990.00
Less estimated income.....	67,000.00
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Net operating budget.....	\$ 116,990.00
Land, structures and major improvements:	
Maintenance facility	10,000.00
Total general fund.....	\$ 126,990.00
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Grand total general fund.....	\$5,933,093.00

Any additional income is hereby appropriated providing income in excess of estimated income which is deposited in the state treasury can be expended only by authorization of the emergency commission.

§ 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, 1967, and ending June 30, 1969.

§ 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.

§ 4.) Gifts from private sources and grants from the government of the United States may be received and expended in accordance with the terms of such gift or grant for the purpose of constructing buildings having a cost of not in excess of \$18,000.00 for the use and benefit of the North Dakota state university of agriculture and applied science experiment station or branch stations.

§ 5.) The board of higher education along with the dean of the main experiment station is hereby directed and authorized to phase out any branch experiment station which in their good judgment is not contributing substantially to the overall research programs in agriculture in the state of North Dakota.

Approved March 14, 1967.

CHAPTER 33

H. B. No. 503
(Committee on Appropriations)

STATE HIGHWAY PATROL

AN ACT

Making an appropriation out of the state highway fund in the state treasury for the operation, maintenance, equipment, supplies, outfitting of patrolmen, travel and miscellaneous expenses for the highway patrol.

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 highway fund in the state treasury, not otherwise appropriated, the sum of \$1,961,450.00, or so much thereof as is necessary for the operation, maintenance, equipment, supplies, outfitting of patrolmen, travel and miscellaneous expenses for the highway patrol, for the biennium beginning July 1, 1967, and ending June 30, 1969, to wit:

Salaries and wages.....	\$1,368,250.00
(Including salary of superintendent not to exceed \$22,000.00 for the biennium—and salary of the assistant superintendent, not to exceed \$20,000.00 for the biennium)	
Fees and services.....	256,000.00
Supplies and materials.....	227,600.00
Equipment	109,600.00
Total	<u>\$1,961,450.00</u>

Each member of the state highway patrol shall receive from the line item "Fees and services" above, the sum of sixty dollars per month in lieu of all expenses and reimbursement for meals while in 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.

Approved March 14, 1967.

CHAPTER 34

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

STATE HISTORICAL BOARD

AN ACT

Making an appropriation to the state historical board for salary, clerk-hire and miscellaneous expenses and the maintenance of the state historical board, 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 \$298,100.00, or so much thereof, as may be necessary for salary, clerkhire, and miscellaneous expenses and maintenance of the state historical society in the sums hereinafter set forth, for the biennium beginning July 1, 1967, and ending June 30, 1969, to wit:

Salaries and wages.....	\$148,000.00
(Including salary of superintendent not to exceed \$20,064.00 for the biennium)	
Fees and services.....	15,600.00
Supplies and materials.....	35,000.00
Equipment	5,000.00
Grants for improvement and maintenance of Peace Garden by Peace Garden association pursuant to contract with such association....	49,000.00
Land, structures and major improvements:	
New storage building.....	15,000.00
Repairs Chateau DeMores.....	7,500.00
Pembina state park building.....	8,000.00
Repairs Fort Totten.....	15,000.00
Total	\$298,100.00

§ 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 15, 1967.

CHAPTER 35

H. B. No. 505
(Committee on Appropriations)

NORTH DAKOTA PARK SERVICE

AN ACT

Making an appropriation to the North Dakota park service for administration, operation, maintenance, and development of state parks.

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

§ 1. **Transfer.**) There shall be periodically transferred from the state park fund in the state treasury all income received by the state park fund not encumbered by chapter 55-08 of the North Dakota Century Code by the director of the department of accounts and purchases to the state park's operating fund in the state treasury.

§ 2. **Appropriation.**) There is hereby appropriated out of any unappropriated funds in the state park operating fund in the state treasury the sum of \$1,117,298.00 of which \$763,808.00 is derived from income and collections and \$353,490.00 from the general fund or so much thereof as is necessary for salary, clerkhire, and maintenance of state parks, in the sums hereinafter set forth for the biennium beginning July 31, 1967, and ending June 30, 1969, to wit:

Salaries and wages.....	\$ 762,405.00
Fees and services.....	146,270.00
Supplies and materials.....	113,165.00
Equipment	43,650.00
Land, structures and major improvements:	
Purchase Riverdale marina at Garrison	
Lake state park.....	36,808.00
Remodel kitchen—Lake Metigoshe.....	15,000.00
	<hr/>
Total	\$1,117,298.00
Less estimated state park fund income.....	119,808.00
Less federal income	644,000.00
	<hr/>
Net general fund.....	\$ 353,490.00

§ 3.) If income exceeds the amount estimated, the general fund appropriation will be reduced in an equal amount.

§ 4.) The moneys herein appropriated in accordance with budget categories for salaries and wages pertaining to work-

load change, different services, or added facilities shall be made available only after certification to the executive office of the budget that such changes, services, or facilities have been added, or that newly anticipated employees are actually in the employ of the state.

Approved March 15, 1967.

CHAPTER 36

H. B. No. 506

(Committee on Appropriations)

ECONOMIC DEVELOPMENT COMMISSION

AN ACT

Making an appropriation for the use of the North Dakota economic development commission.

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

§ 1. Appropriation.) There is hereby appropriated out of any unappropriated funds in the economic development commission operating fund in the state treasury the sum of \$735,984.00, or so much thereof as may be necessary, to be used as prescribed by chapter 54-34 of the North Dakota Century Code, of which \$468,554.00 is derived from income and collections and \$267,430.00 from the general fund in the state treasury for the biennium beginning July 1, 1967, and ending June 30, 1969, to wit:

Salaries and wages.....	\$169,784.00
Fees and services.....	525,600.00
Supplies and materials.....	38,000.00
Equipment	2,600.00
	<hr/>
Total for biennium.....	\$735,984.00
Less estimated income.....	468,554.00
	<hr/>
Total general fund.....	\$267,430.00

§ 2. Appropriation.) The moneys herein appropriated in accordance with budget categories for salaries and wages pertaining to workload change, different services, or added facilities shall be made available only after certification to the executive office of the budget that such changes, services, or facilities have been added, or that newly anticipated employees are actually in the employ of the state.

Approved March 14, 1967.

CHAPTER 37

H. B. No. 507
(Committee on Appropriations)

OLD AGE AND SURVIVOR INSURANCE SYSTEM AND
SOCIAL SECURITY CONTRIBUTION FUND

AN ACT

Relating to an appropriation for the purpose of administering the provisions of chapters 52-09 and 52-10 of the North Dakota Century Code, pertaining to administration costs of the old age and survivor insurance system and 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 \$99,460.00, or so much thereof as may be necessary for the purpose of administering the provisions of chapters 52-09 and 52-10 of the North Dakota Century Code, pertaining to the old age and survivor insurance system and the social security coverage of public employees, for the biennium beginning July 1, 1967, and ending June 30, 1969, to wit:

Salaries and wages.....	\$ 78,504.00
Fees and services.....	15,768.00
Supplies and materials.....	4,235.00
Equipment	953.00
Total	\$ 99,460.00

Approved February 20, 1967.

CHAPTER 38

H. B. No. 508
 (Committee on Appropriations)

LIVESTOCK SANITARY BOARD

AN ACT

Making an appropriation to the livestock sanitary board for its operating and maintenance expense and for veterinary inspectors fees and expenses pertaining to licensed quarantined feedlots and livestock sales rings.

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 \$384,229.00, or so much thereof as may be necessary, to pay the operating and maintenance expenses of the livestock sanitary board, and for veterinary inspectors fees and expenses pertaining to licensed quarantined feedlots and livestock sales rings, for the biennium beginning July 1, 1967, and ending June 30, 1969, to wit:

Salaries and wages.....	\$141,525.00
Fees and services.....	226,985.00
Supplies and materials.....	13,719.00
Equipment	2,000.00
	<hr/>
Total	\$384,229.00

Approved March 14, 1967.

CHAPTER 39

H. B. No. 509

(Committee on Appropriations)

COMMISSIONER OF VETERANS' AFFAIRS AND
VETERANS' AID COMMISSION

AN ACT

Providing an appropriation for the paying of salaries and other administrative expenses of the office of commissioner of veterans' affairs and 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 any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$109,828.00, or so much thereof as may be necessary to pay salaries and other administrative expenses of the office of commissioner of veterans' affairs and the veterans' aid commission, for the biennium beginning July 1, 1967, and ending June 30, 1969, to wit:

Salaries and wages.....	\$ 87,828.00
(Including salary of commissioner of veterans' affairs not to exceed \$15,360.00 for biennium)	
Fees and services.....	18,700.00
Supplies and materials.....	3,300.00
Total	<u>\$109,828.00</u>

Approved March 14, 1967.

CHAPTER 40

H. B. No. 510

(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 \$193,125.00 out of interest and income and federal aid funds of the home hereafter named, and the sum of \$146,555.00 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, 1967, and ending June 30, 1969, to wit:

Salaries and wages.....	\$226,305.00
(Including salary of the commandant, not to exceed \$16,800.00 for the biennium)	
Fees and services.....	32,000.00
Supplies and materials.....	80,000.00
Dam repair.....	1,375.00
	<hr/>
Total for the biennium.....	\$339,680.00
Less estimated income.....	193,125.00
	<hr/>
Total general fund.....	\$146,555.00

Approved February 20, 1967.

CHAPTER 41

H. B. No. 511

(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 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 unappropriated funds in the public welfare board operating fund in the state treasury the sum of \$49,532,041.00, of which \$36,000,000.00 is derived from income and collections and \$13,532,041.00 from the general fund in the state treasury, 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 programs above mentioned, for the biennium beginning July 1, 1967, and ending June 30, 1969, to wit:

Salaries and wages.....	\$ 1,600,000.00
Fees and services.....	266,700.00
Supplies and materials.....	41,000.00
Equipment	18,000.00
Grants to and for recipients.....	45,489,200.00
Child welfare services:	
Fees and services.....	1,320,729.00
Crippled children's services:	
Fees and services.....	796,412.00
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Total for biennium.....	\$49,532,041.00
Less estimated income.....	36,000,000.00
	<hr/>
Total general fund.....	\$13,532,041.00

§ 2. **Appropriation.)** The moneys herein appropriated in accordance with budget categories for salaries and wages pertaining to workload change, different services, or added facilities shall be made available only after certification to the executive office of the budget that such changes, services, or facilities have been added, or that newly anticipated employees are actually in the employ of the state.

Approved March 14, 1967.

CHAPTER 42

H. B. No. 512
(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 the sum of \$100,000.00 from federal aid matching funds, and the sum of \$100,000.00 out of the general fund in the state treasury, not otherwise appropriated, or so much thereof as may be necessary to carry out the provisions of chapter 37-17 of the North Dakota Century Code, pertaining to the operation of civil defense for North Dakota, as follows:

Salaries and wages	\$147,500.00
Fees and services.....	36,000.00
Supplies and materials	10,000.00
Equipment	6,500.00
	<hr/>
Total for the biennium	\$200,000.00
Less federal share	100,000.00
	<hr/>
Total general fund	\$100,000.00

Approved March 6, 1967.

CHAPTER 43

H. B. No. 513
(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 \$1,144,212.00, or so much thereof as may be necessary for the purpose of defraying the expenses of the maintenance and operation of the department of registrar of motor vehicles, for the biennium beginning July 1, 1967, and ending June 30, 1969, to wit:

Salaries and wages.....	\$ 523,449.00
(Including salary of registrar, not to exceed \$19,200.00 for the biennium)	
Fees and services.....	330,163.00
Supplies and materials.....	75,600.00
Equipment	15,000.00
License plates.....	200,000.00
	<hr/>
Total	\$1,144,212.00

Approved March 6, 1967.

CHAPTER 44

H. B. No. 514
(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 and to authorize expenditures for highway project construction costs.

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

§ 1. Appropriation for Administrative, Maintenance and Construction Expense.) There is hereby appropriated out of any unappropriated funds in the state highway fund in the state treasury, the sum of \$116,144,660.00, or so much thereof as may be necessary for the purpose of defraying the expenses of administration, maintenance and construction of the state highway department, and cooperating with the federal government under the Act of Congress known as the "Federal Highway Act", for the biennium beginning July 1, 1967, and ending June 30, 1969, as follows:

Salaries and wages.....	\$ 19,576,240.00
(Including salary of commissioner, not to exceed \$32,040.00 for the biennium)	
Fees and services.....	2,764,555.00
Contracts	78,000,000.00
Supplies and materials.....	4,992,350.00
Equipment	1,715,215.00
Land, structures and major improvements:	
Right-of-way	3,000,000.00
Minot district office and shop.....	315,000.00
Fargo district office and shop.....	211,600.00
Eight storage buildings.....	144,000.00
Improvements, stockpile sites and special assessments	35,500.00
Grants, benefits and claims.....	100,000.00
Contingency	5,000,000.00
State tourist bureau:	
Salaries and wages.....	66,865.00
Fees and services.....	95,310.00
Supplies and materials.....	120,450.00
Equipment	7,575.00
Total	<u>\$116,144,660.00</u>

Approved March 15, 1967.

CHAPTER 45

H. B. No. 515
(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 \$804,180.00, 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, 1967, and ending June 30, 1969, to wit:

Salaries and wages.....	\$611,600.00
(Including total salaries of members of the bureau, not to exceed \$18,000.00 each for the biennium)	
Fees and services.....	105,060.00
Supplies and materials.....	56,100.00
Equipment	21,420.00
Emergency	10,000.00
Total	\$804,180.00

§ 2. Appropriation.) The moneys herein appropriated in accordance with budget categories for salaries and wages pertaining to workload change, different services, or added facilities shall be made available only after certification to the executive office of the budget that such changes, services, or facilities have been added, or that newly anticipated employees are actually in the employ of the state.

Approved February 22, 1967.

CHAPTER 46

H. B. No. 516
 (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 \$2,302,481.00, 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, 1967, and ending June 30, 1969, to wit:

Salaries and wages.....	\$1,137,481.00
(Including salary of commissioner not to exceed \$20,160.00 for the biennium — salary of deputy commissioner not to exceed \$19,000.00 for the biennium)	
Fees and services.....	391,000.00
In lieu of taxes.....	40,000.00
Supplies and materials.....	262,000.00
Equipment	130,000.00
Land, structures and major improvements:	
Land acquisition and dam construction.....	262,000.00
Improvement fish hatchery.....	8,000.00
Grants, benefits and claims.....	22,000.00
Emergency	50,000.00
 Total	 \$2,302,481.00

Approved March 14, 1967.

CHAPTER 47

H. B. No. 517
(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 \$117,590.00 for the purpose of operating and maintaining the teachers' insurance and retirement fund, for the biennium beginning July 1, 1967, and ending June 30, 1969, to wit:

Salaries and wages	\$ 74,240.00
Fees and services	28,850.00
Supplies and materials	4,500.00
Equipment	10,000.00
Total	<u>\$117,590.00</u>

Approved March 6, 1967.

CHAPTER 48

H. B. No. 518
(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.

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

§ 1. Appropriation.) There is hereby appropriated to the nurses' scholarship loan fund out of any moneys in the state general fund in the state treasury, not otherwise appropriated,

the sum of \$68,000.00, or so much thereof as may be necessary for the purpose of paying nursing preparation scholarships and administration costs, as provided for in chapter 43-12 of the North Dakota Century Code, for the biennium beginning July 1, 1967, and ending June 30, 1969, as follows:

Fees and services.....	\$ 2,700.00
Supplies and materials.....	300.00
Scholarships granted.....	65,000.00
	Total
	\$ 68,000.00

Approved February 20, 1967.

CHAPTER 49

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 \$156,276.00, 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, 1967, and ending June 30, 1969, to wit:

Salaries and wages.....	\$120,603.00
Fees and services.....	18,121.00
Supplies and materials.....	7,352.00
Equipment	4,000.00
Grants, benefits and claims.....	1,200.00
Emergency fund.....	5,000.00
	Total
	\$156,276.00

Approved February 21, 1967.

CHAPTER 50

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 \$2,798,552.00, 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, 1967, and ending June 30, 1969, to wit:

Banking Department

Salaries and wages.....	\$ 815,592.00
Fees and services.....	133,200.00
Supplies and materials.....	56,800.00
Equipment	55,000.00
Emergency	40,000.00
Total	\$1,100,592.00

Judge A. M. Christianson Project

Salaries and wages.....	\$ 12,960.00
Fees and services.....	10,000.00
Supplies and materials.....	9,000.00
Emergency	1,000.00
Total	\$ 32,960.00

Grand total \$1,133,552.00

Approved March 15, 1967.

CHAPTER 51

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 \$3,724,356.00, 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, 1967, and ending June 30, 1969, to wit:

Salaries and wages.....	\$2,497,156.00
Fees and services.....	953,000.00
Supplies and materials.....	44,700.00
Emergency	229,500.00
	<hr/>
Total	\$3,724,356.00

Approved March 6, 1967.

CHAPTER 52

H. B. No. 522

(Committee on Appropriations)

STATE OFFICERS EXPENSE PAYMENTS

AN ACT

To provide for payment of expenses to certain state officers, judges of district court and supreme court judges, making an appropriation, and declaring an emergency.

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

§ 1.) The secretary of state, state auditor, state treasurer, attorney general, commissioner of insurance, commissioner of agriculture, 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 \$5,000.00 for each calendar year of 1967 and 1968 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; the lieutenant governor in order to properly discharge his official duty shall be paid the sum of \$400.00 for each of the calendar years 1967 and 1968 for expenses and moneys expended while engaged in the discharge of official duty to be paid quarterly by the department of accounts and purchases without the filing of any itemized voucher or statement; the governor in order to properly discharge his official duty shall be paid the sum of \$6,000.00 for each of the calendar years 1967 and 1968 for expenses and moneys expended while engaged in the discharge of official duty, to be paid quarterly by the department of accounts and purchases without the filing of any itemized voucher or statement; and each judge of the district court and supreme court in order to properly discharge his official duty shall be paid the sum of \$500.00 for the period beginning January 1, 1967, and ending June 30, 1967, for expenses and moneys expended while engaged in the discharge of official duty, to be paid quarterly 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 general fund in the state treasury, not otherwise appropriated the sum of \$133,300.00, or so much thereof as may be necessary to carry out the provisions of this Act.

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

Approved March 4, 1967.

CHAPTER 53

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 \$544,100.00 for the purpose of defraying the expenses of the maintenance and operation of the state wheat commission, for the biennium beginning July 1, 1967, and ending June 30, 1969, to wit:

Salaries and wages.....	\$122,600.00
Fees and services	306,400.00
Supplies and materials.....	27,600.00
Equipment	2,000.00
Grants, benefits and claims.....	3,000.00
Research—wheat and durum quality and economic research through North Dakota experiment station	70,000.00
Contingency fund	12,500.00
	<hr/>
Total	\$544,100.00

Approved March 15, 1967.

CHAPTER 54

H. B. No. 524

(Committee on Appropriations)

STATE WATER CONSERVATION COMMISSION

AN ACT

Making an appropriation to the state water conservation commission for general administrative expenses, maintenance and construction of dams; planning, surveying and construction expenses of multiple purpose water projects; and organizing water conservation and irrigation districts.

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 unappropriated funds in the general fund in the state treasury, the sum of \$1,043,269.00, or so much thereof as may be necessary for the general administrative expenses of the commission; maintenance and construction of dams; expenses of planning, surveying and construction of multiple purpose water projects; expenses of organizing water conservation districts; and for cooperating with agencies of the federal government and local government agencies of this state in planning and construction of water conservation projects; for the biennium beginning July 1, 1967, and ending June 30, 1969, as follows:

Salaries and wages.....	\$ 642,269.00
Fees and services.....	126,000.00
Supplies and materials.....	145,000.00
Equipment	35,000.00
Compensation of state representative to, and state's share of expenses of, Red-Souris- Rainy River basins commission.....	95,000.00
Total	<u>\$1,043,269.00</u>

§ 2. Appropriation for Water Project Contract Payments.) There is hereby appropriated to the state water commission contract fund out of any moneys in the state treasury, not otherwise appropriated, the sum of \$845,923.00, to be available for water project contract obligations for the biennium beginning July 1, 1967, and ending June 30, 1969. The sum herein appropriated shall be transferred as needed by the director of the department of accounts and purchases and the state treasurer to the state water commission contract fund in the state treasury. Any moneys paid to the state water commission

by any department, agency or political subdivision of this or another state or of the United States or any person or corporation to meet its part of the cost of a water project, shared with the commission on a matching or participating basis, and as determined by a written contract entered into with the commission, shall be deposited with the state treasurer and are hereby appropriated out of the state treasury and shall be credited to the contract fund.

Approved March 15, 1967.

CHAPTER 55

H. B. No. 525
(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 unappropriated funds in the public health department operating fund in the state treasury the sum of \$2,868,290.00, of which \$1,970,852.00 is derived from income and collections, and \$897,438.00 from the general fund, or so much thereof as is necessary to pay the salaries, clerkhire and all miscellaneous items and expenses of the public health department, for the biennium beginning July 1, 1967, and ending June 30, 1969, to wit:

Salaries and wages.....	\$1,939,483.00
Fees and services.....	360,572.00
Supplies and materials.....	205,000.00
Equipment	63,235.00
Grants, benefits and claims:	
Grants to district health units.....	300,000.00
	<hr/>
Total for biennium.....	\$2,868,290.00
Less estimated income.....	1,970,852.00
	<hr/>
Total general fund.....	\$ 897,438.00

§ 2. **Appropriation.)** There is also hereby appropriated to the state health department out of any unappropriated funds in the general fund in the state treasury, the sum of \$250,000.00,

or so much thereof as is necessary for the purpose of providing financial assistance in establishing and maintaining mental health and retardation units, as provided in chapter 25-12 of the North Dakota Century Code.

§ 3. Appropriation.) The moneys herein appropriated in accordance with budget categories for salaries and wages pertaining to workload change, different services, or added facilities shall be made available only after certification to the executive office of the budget that such changes, services or facilities have been added, or that newly anticipated employees are actually in the employ of the state.

Approved February 22, 1967.

CHAPTER 56

H. B. No. 526

(Committee on Appropriations)

CAPITOL GROUNDS IMPROVEMENT

AN ACT

Making an appropriation to the board of administration out of the general fund, the state highway fund and the interest and income capitol building fund for the purpose of constructing a new maintenance shop and capitol buildings and ground improvements, and declaring an emergency.

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

§ 1. Appropriation.) There is hereby appropriated to the state board of administration out of any unappropriated funds in the general fund the sum of \$136,000.00, or so much thereof as may be necessary for the construction of a new maintenance shop to be located on the capitol grounds subject to the approval of the capitol grounds planning commission as to location and design, and the sum of \$36,000.00 or so much thereof as may be necessary from the general fund for underground wiring on the capitol grounds.

§ 2. Appropriation.) There is hereby appropriated to the state board of administration out of any unappropriated funds in the state highway fund the sum of \$132,500.00 or so much thereof as may be necessary, for the purpose of facilities and improvements made necessary by the construction of the state highway department building, to wit:

Extension of utilities to new highway building	\$ 65,000.00
East parking lot improvement.....	27,500.00

New road complex.....	22,000.00
Water main from Divide Avenue.....	18,000.00
	Total
	\$132,500.00

§ 3. **Appropriation.)** There is hereby appropriated to the state board of administration out of any unappropriated funds in the interest and income capitol building fund of the permanent capitol building fund the sum of \$45,000.00, or so much thereof as may be necessary, for repair and renovation of the state capitol building as follows:

Repair of roof—17th floor.....	\$ 15,000.00
Plaza renovation.....	30,000.00
	Total
	\$ 45,000.00

§ 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 14, 1967.

CHAPTER 57

H. B. No. 528

(Committee on Appropriations)

GOVERNOR'S COUNCIL ON HUMAN RESOURCES

AN ACT

Making an appropriation for salaries and expenses of the governor's council on human resources.

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

§ 1. **Appropriation.)** There is hereby appropriated out of any unappropriated funds in the general fund in the state treasury the sum of \$32,000.00, or so much thereof as is necessary for salaries and expenses of the governor's council on human resources, for the biennium beginning July 1, 1967, and ending June 30, 1969, to wit:

Salaries and wages	\$ 18,000.00
Fees and services	11,333.00
Supplies and materials	2,067.00
Equipment	600.00
	Total
	\$ 32,000.00

Approved March 6, 1967.

CHAPTER 58

H. B. No. 529

(Committee on Appropriations)

NORTH DAKOTA HERITAGE COMMISSION

AN ACT

Making an appropriation to the North Dakota heritage commission to plan and design a heritage center and authorizing a heritage center construction fund.

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

§ 1. Appropriation.) There is hereby appropriated the sum of \$10,000.00 from the general fund for the purpose of planning and designing a heritage center building to be located on the capitol building grounds, in accordance with section 55-09 of the North Dakota Century Code.

§ 2. Authorizing a Construction Fund.) The commission is authorized to establish a heritage center construction fund in the office of the state treasurer for the purpose of encouraging contributions, gifts, bequests, grants and other revenues from private individuals, companies and corporations. All moneys deposited in the heritage center construction fund shall be used for the purpose of defraying the costs of actual construction of the heritage center.

Approved March 4, 1967.

CHAPTER 59

H. B. No. 530
(Committee on Appropriations)

EXTRAORDINARY EXPENSES OF LAW ENFORCEMENT

AN ACT

Making an appropriation to meet the 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 \$20,000.00, 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, 1969, 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.

§ 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 and 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 February 21, 1967.

CHAPTER 60

H. B. No. 555
(Committee on Appropriations)

EMERGENCY REPAIR OF HIGHWAYS

AN ACT

Making an appropriation for the purpose of providing emergency relief for counties suffering damage to highways in the flood of June 24, 1966, and declaring an emergency.

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

§ 1. Appropriation.) There is hereby appropriated from the motor vehicle registration fund the sum of \$333,155.00 for emergency repair of highways damaged in the flood of June 24, 1966, to be distributed as follows:

Hettinger County	\$ 5,880.00
McHenry County	3,160.00
McLean County	14,640.00
Mercer County	69,205.00
Morton County	57,400.00
Oliver County	167,990.00
Stark County	14,880.00
Total	<u>\$333,155.00</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.

Approved March 14, 1967.

CHAPTER 61

H. B. No. 873
(Committee on Appropriations)

STATE HISTORICAL BOARD

AN ACT

Making an appropriation to the state historical board for salaries and wages for the period beginning January 1, 1967, and ending June 30, 1967, 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 \$7,500.00 or so much thereof as may be necessary, for salaries and wages for the operation of the state historical board for the period beginning January 1, 1967, and ending June 30, 1967.

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

Approved February 24, 1967.

CHAPTER 62

S. B. No. 77
(Luick, Wenstrom)

CONSTRUCTION OF ARMORIES AND IMPROVEMENTS
TO MILITARY PROPERTY

AN ACT

Reappropriating the unexpended balance of that appropriation contained in section 3 of chapter 50 of the 1965 Session Laws for the construction of armories and improvements to military property.

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

§ 1. Reappropriation of Funds.) There is hereby reappropriated to the North Dakota national guard the sum of \$157,305.00, or such balance as may remain unexpended upon the effective date of this Act, from that appropriation pre-

viously made in section 3 of chapter 50 of the 1965 Session Laws of the state of North Dakota. Such balance shall be expended for the construction of armories in amounts and in the 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 except that a sum not exceeding \$4,500.00 may be expended for the repair and maintenance of the state-owned national guard armory in the city of Fargo, and a sum not exceeding \$5,000.00 may be expended for improvements at Camp Gilbert C. Grafton in Ramsey County, North Dakota.

Approved February 22, 1967.

CHAPTER 63

S. B. No. 171

(Coughlin, Decker, Sands, Meschke, Wilhite, Melland, Robinson,
 (Wenstrom, Nething, Becker, Jacobson, Longmire, Schultz,)
 (Christensen, Nasset, Forkner, Hofstrand, Berube, Rait,)
 (Roen, Geving)

NORTH DAKOTA FAIR ASSOCIATION

AN ACT

Providing an appropriation for the North Dakota state fair association.

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

§ 1. Appropriation.) There is hereby appropriated out of any unappropriated moneys in the state treasury the sum of \$50,000.00, or so much thereof as may be necessary, to the North Dakota state fair association for the purpose of providing premiums to exhibitors at the state fair.

§ 2. Contingent Availability of Funds.) The funds provided by this Act shall not become or remain available for expenditure unless the board of county commissioners of the county wherein the state fair is located shall levy not less than one-half mill under the provisions of sections 4-02-27 and 4-02-27.1 for use of the county fair association of such county in the maintenance and improvement of fair grounds used by the state fair association for state fair purposes.

Approved March 14, 1967.

CHAPTER 64

S. B. No. 288
(Sorlie)

EMPLOYMENT SECURITY BUREAU REIMBURSEMENT

AN ACT

To appropriate money to the employment security bureau for reimbursement to the United States on account of expenditure of granted federal funds contrary to federal standards.

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 \$525.76, or so much thereof as may be necessary, to the North Dakota employment security bureau for the purpose of reimbursing the United States Department of Labor because of exceptions taken to the expenditure of certain funds granted to the state by the United States for the operation of the unemployment compensation division and the state employment service for the fiscal years 1937, 1938, 1939, 1941, 1961, and 1962.

Approved March 14, 1967.

CHAPTER 65

S. B. No. 378
(Meschke, Lips)

GOVERNOR-ELECT

AN ACT

Making an appropriation to defray the office and clerical expenses of the governor-elect of 1968.

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

§ 1. Appropriation.) There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of \$2,500.00, or so much thereof as may be necessary, to be expended by the governor-elect during the months of November and December of 1968 for such office and clerical expenses as he (or she) may find necessary to prepare for the orderly assumption of his (or her) duties as governor in 1969.

§ 2. Procedure.) The appropriation provided for in this Act shall be recorded and supervised as a special account by the director of the department of accounts and purchases and payment from said appropriation shall be made pursuant to the statutes and regulations that govern expenditures by state agencies. Vouchers ordering payment shall be signed by the governor-elect.

§ 3. Invalidation of Appropriation.) This appropriation shall be invalidated by the director of the department of accounts and purchases if the governor-elect is serving as governor during the months of November and December of 1968.

Approved February 24, 1967.

CHAPTER 66

S. B. No. 401

(Committee on Delayed Bills)

STATE EMPLOYEES' RETIREMENT PROGRAM

AN ACT

To make an appropriation for the operation of the state employees' retirement program, and declaring an emergency.

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

§ 1. Appropriation for Administrative Expenses.) There is hereby appropriated out of the administrative expense and benefit fund of the state employees' retirement fund the sum of \$149,934.00 for the period beginning upon the effective date of this Act and ending June 30, 1969, as follows:

Salaries and wages.....	\$ 78,894.00
(Including honorariums to board members)	
Fees and services.....	56,340.00
Supplies and materials.....	8,400.00
Equipment	2,300.00
Emergency	4,000.00
Total	<u>\$149,934.00</u>

§ 2. Appropriation.) The moneys herein appropriated in accordance with budget categories for salaries and wages pertaining to workload change, different services, or added facilities shall be made available only after certification to the

executive office of the budget that such changes, services, or facilities have been added, or that newly anticipated employees are actually in the employ of the state.

§ 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, 1967.

CHAPTER 67

H. B. No. 535

(Aamoth, Haugland, Wagner, Wilkie, Williamson)
(From LRC Study)

SAN HAVEN REMODELING

AN ACT

To make an appropriation to the board of administration for the purpose of making minor remodeling changes and hiring additional attendants at the San Haven institution to permit the immediate transfer of mentally deficient residents from the Grafton state school to San Haven, and declaring an emergency.

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

§ 1. Deficiency Appropriation.) There is hereby appropriated to the state board of administration out of any moneys in the state treasury, not otherwise appropriated, the sum of \$75,000.00 or so much thereof as may be necessary, for the purpose of remodeling portions of the institution at Dunseith, known as the San Haven institution, for the transfer of mentally deficient persons from the Grafton state school to San Haven, purchasing necessary supplies, and employing additional attendants to care for them, during the biennium ending June 30, 1967.

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

Approved February 21, 1967.

CHAPTER 68

H. B. No. 566
(Larson(16), Kingsbury)

GRAFTON STATE SCHOOL, DEFICIENCY

AN ACT

To make a deficiency appropriation to pay salaries and wages of the Grafton state school, 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, the sum of sixty-one thousand dollars or so much thereof as may be necessary to pay salaries and wages of the Grafton state school during the 1965-1967 biennium. This sum shall be made available to the Grafton state school immediately on passage for the purpose of paying such salaries and wages.

§ 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 24, 1967.

CHAPTER 69

H. B. No. 607
(Halcrow, Davis, Connolly, Saugstad)

DEPARTMENT OF LABOR—EMERGENCY

AN ACT

Making an appropriation for the department of labor for salaries and wages, fees and services, and supplies and materials for the period beginning January 1, 1967, and ending June 30, 1967, 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 \$37,079.00, or so much thereof as may be necessary, to pay the operating and maintenance expenses of the depart-

ment of labor, for the period beginning January 1, 1967, and ending June 30, 1967, to wit:

Salaries and wages.....	\$ 25,304.00
(Including salary of commissioner not to exceed \$5,000.00 for the period beginning January 1, 1967, and ending June 30, 1967)	
Fees and services.....	10,525.00
Supplies and materials.....	1,250.00
	\$ 37,079.00
Total	\$ 37,079.00

§ 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 February 9, 1967.

CHAPTER 70

H. B. No. 719
(Boustead, Dick, Kuehn, Brown)

WORLD WAR II AND KOREAN HOSTILITIES
SERVICE RECORDS

AN ACT

Making an appropriation for the completion of the compilation and publishing of the records of those who served in World War II and the Korean hostilities.

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

§ 1. **Appropriation.)** There is hereby appropriated out of any unappropriated moneys in the state treasury the sum of \$85,000.00, or so much thereof as may be necessary, to the adjutant general for the purpose of completing the compilation and printing of the service records of veterans of World War II and the Korean hostilities as directed by section 37-03-12 of the North Dakota Century Code, for the biennium beginning July 1, 1967, and ending June 30, 1969. The funds hereby appropriated and designated shall be expended for and only as prescribed by this Act. Any unexpended funds, including funds derived from the sale of the published records, shall revert to the state general fund.

Approved March 14, 1967.

CHAPTER 71

H. B. No. 745

(Solberg(9), Haugland, Aamoth, Dick, Wagner, Connolly, Saugstad,
(Halcrow, Tweten, Davis, Diehl, Olienyk, Powers, Freeman, Jenkins),
(Larson(16), Peterson(5), Opedahl, McDonald(18), Stone, Ganser),
(Williamson, Link, Wilkie, Lee, Unruh, Dornacker)

BUILDINGS AT INTERNATIONAL PEACE GARDEN
MUSIC CAMP

AN ACT

Providing an appropriation for the construction of a dormitory building and for an administration building at the International Peace Garden music camp, 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 \$65,000.00, or so much thereof as may be necessary, for the purpose of constructing a dormitory building and constructing an administration building at the International Peace Garden music camp. Title to such buildings shall be and remain in 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 14, 1967.

GENERAL PROVISIONS

CHAPTER 72

S. B. No. 72
(Longmire)

STATUTORY CONSTRUCTION

AN ACT

To create and enact section 1-01-35.1 of the North Dakota Century Code, relating to the tense of words, to create and enact subsections 13, 14, and 15 of section 1-01-49 of the North Dakota Century Code, relating to the definitions of "executor and administrator", "preceding and following", and "rules and regulations", to create section 1-02-09.1 of the North Dakota Century Code, relating to multiple amendments to the same provision, and providing for aids in statutory construction, and to amend and reenact sections 1-01-33, 1-01-34, and 1-02-15 of the North Dakota Century Code, relating to the definition of "year", "month", and "masculine", and to the computation of time.

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

§ 1. **Amendment.)** Section 1-01-33 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1-01-33. Year—Month—Week—Definition—Fraction of Day Disregarded.) The word "week" shall mean seven consecutive days and the word "month" a calendar month. The word "year" shall mean twelve consecutive months. Fractions of a year are to be computed by the number of months, thus, half a year is six months. Fractions of a day are to be disregarded in computations which include more than one day and involve no questions of priority.

§ 2. **Amendment.)** Section 1-01-34 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1-01-34. Gender—Definition.) Words of one gender include the other genders.

§ 3.) Section 1-01-35.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

1-01-35.1. Tense.) Words in the present tense include the future.

§ 4.) Subsections 13, 14, and 15 of section 1-01-49 of the North Dakota Century Code are hereby created and enacted to read as follows:

13. "Executor and administrator". "Executor" includes administrator and "administrator" includes executor.
14. "Preceding and following". "Preceding" and "following" when used by way of reference to a chapter or other part of a statute means the next preceding or next following chapter or other part.
15. "Rules and regulations." "Rule" includes regulation.

§ 5.) Section 1-02-09.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

1-02-09.1. Multiple Amendments to the Same Provision, One Without Reference to the Other.) If amendments to the same statute are enacted at the same or different sessions of the legislature, one amendment without reference to another, the amendments are to be harmonized, if possible, so that effect may be given to each. If the amendments are irreconcilable, the latest in date of enactment prevails.

§ 6. **Amendment.)** Section 1-02-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1-02-15. Computation of Time.) The time in which any act provided by law is to be done is computed by excluding the first day and including the last, unless the last is a holiday, and then it also is excluded. If a number of months is to be computed by counting the months from a particular day, the period ends on the same numerical day in the concluding month as the day of the month from which the computation is begun, unless there are not that many days in the concluding month, in which case the period ends on the last day of that month.

§ 7. **Intentions in the Enactment of Statutes.)** In enacting a statute, it is presumed that:

1. Compliance with the Constitutions of the state and of the United States is intended.
2. The entire statute is intended to be effective.
3. A just and reasonable result is intended.
4. A result feasible of execution is intended.
5. Public interest is favored over any private interest.

§ 8. Aids in Construction of Ambiguous Statutes.) If a statute is ambiguous, the court, in determining the intention of the legislation, may consider among other matters:

1. The object sought to be attained.
2. The circumstances under which the statute was enacted.
3. The legislative history.
4. The common law or former statutory provisions, including laws upon the same or similar subjects.
5. The consequences of a particular construction.
6. The administrative construction of the statute.
7. The preamble.

§ 9. Statutory References.) A reference to any portion of a statute applies to all reenactments, revisions, or amendments thereof.

§ 10. References To a Series.) If a statute refers to a series of numbers or letters, the first and the last numbers or letters are included.

Approved February 22, 1967.

AERONAUTICS

CHAPTER 73

H. B. No. 869
(Boustead, Lang, Mathiason)

AIRPORT LIABILITY INSURANCE

AN ACT

Authorizing any political subdivision, at its option, to procure liability and casualty insurance protecting the political subdivision or the employees thereof against claims or loss arising out of the operation of an airport; and providing for waiver of governmental immunity in the event such insurance is purchased.

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

§ 1. Authorization for Airport Liability Insurance—Exceptions.) From and after July 1, 1967, any airport authority, county, city, village, township, or other political subdivision which operates an airport, is hereby authorized to carry liability insurance for its own protection and the protection of any employee from claim for loss or damage for bodily injury or property damage arising out of or by reason of its operation and maintenance of airport facilities in connection therewith or landing fields; provided that any airport authority or political subdivision, and its agents, servants, and employees shall have full government immunity for any claims in excess of the limits afforded by such policy or policies of insurance or full governmental immunity in the event no insurance is carried; and further providing that the fact of insurance coverage shall not be conveyed to the jury in the event of suits thereon, either directly or indirectly. If a dispute exists concerning the amount or nature of the insurance coverage, the dispute shall be tried separately before the main trial determining the claims and damages of the claimant. This statute confers no right for a claimant to sue the insurer directly.

Approved March 14, 1967.

AGRICULTURE

CHAPTER 74

H. B. No. 575
(Brown, Boustead)

COMMISSIONER OF AGRICULTURE

AN ACT

To amend and reenact sections 4-02-06, 4-02-21, 4-06-01, 4-06-02, 4-06-10, 4-06-11, 4-13-01, 4-13-04, 4-22-03, 4-23-13, 4-27-04, 23-22-02, 53-01-02, 54-16-01, 54-17-02, 54-21-02, 54-36-01, 55-01-01, 57-13-01, and 61-02-04 of the North Dakota Century Code, changing the name of the office of commissioner of agriculture and labor to commissioner of agriculture and removing him from the state historical society board.

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

§ 1. Amendment.) Section 4-02-06 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-02-06. Exhibition Dates To Be Filed—Penalty.) The secretary or other executive officer of every county or district fair association, or other exhibition at which the resources or products of the state are displayed, shall file with the commissioner of agriculture, on or before May first of each year, the dates on which such fair or exhibition will be held, together with the name of the place where the same will be held and the name of the president and secretary of such association. The failure to comply with this section shall subject the officer required to make the report to a fine of not more than fifty dollars.

§ 2. Amendment.) Section 4-02-21 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

§ 3. **Amendment.)** Section 4-06-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-06-01. Federated Cooperative Agricultural Association—Creation—How Constituted—Powers.) There shall be in the department of agriculture, for the purpose of encouraging the formation and maintenance of a federated agricultural association for the protection of states having a community of interest in agricultural problems, a board to be known as the North Dakota commissioners of the federated cooperative agricultural association, which shall consist of three members to be appointed by the commissioner of agriculture. The appointments shall be made from a list of persons submitted by the committees on agriculture in the senate and in the house of representatives, acting jointly. The board shall have full power and authority to present the federated plan to other agricultural states with a view to forming a group of federated states, for the mutual benefit and protection of the producers of agricultural commodities having a community of interest, under the plan described in this chapter.

§ 4. **Amendment.)** Section 4-06-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-06-02. Commissioners—Qualifications—Term—Vacancy.) No commissioner shall be appointed unless he is a bona fide farmer engaged in the pursuit of agriculture. The terms of such commissioners shall be six years, and they shall be appointed so that the term of one commissioner shall expire every two years. In case of death, resignation, or removal from office of any commissioner, the vacancy shall be filled by the commissioner of agriculture for the unexpired term.

§ 5. **Amendment.)** Section 4-06-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-06-10. Administrative Official.) The commissioner of agriculture shall be the chief administrative official of the division of cooperatives.

§ 6. **Amendment.)** Section 4-06-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-06-11. Commissioner of Agriculture—Duties.) The commissioner of agriculture shall assemble, compile, and maintain files of statistical data relating to the work and progress of cooperative enterprises, the statutes of the several states, and so far as reasonably convenient, those of foreign countries,

affecting cooperatives. He also shall carry standard forms and outlines for use and reference in organization work. He shall disseminate information and materials for the use and benefit of established cooperatives and new cooperative projects in process of organization, and shall render such personal assistance to cooperatives generally as may be possible within the means and facilities at his disposal.

§ 7. Amendment.) Section 4-13-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-13-01. North Dakota Poultry Association—Purpose—Debts.) The North Dakota poultry association shall hold an exhibition annually for the purpose of promoting, improving, and increasing the poultry industry. The state shall not be liable for any debts or liabilities of the association except to the extent of appropriations that may be made therefor from time to time. The board of directors of such association shall consist of ten persons, and the commissioner of agriculture shall be a member thereof ex officio.

§ 8. Amendment.) Section 4-13-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-13-04. Improvement Board—How Constituted—Powers of Ex Officio Members.) The North Dakota poultry improvement board shall consist of the chairman of the poultry department of the North Dakota agricultural college, the commissioner of agriculture, and the executive officer of the livestock sanitary board, ex officio, and six members to be appointed by the governor in the manner hereinafter set forth. The ex officio members shall have no voting power, but shall attend and participate in the meetings of the board in an advisory capacity.

§ 9. Amendment.) Section 4-22-03 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-22-03. State Soil Conservation Committee—Members—Compensation—Records and Seal.) The state soil conservation committee shall be maintained as an agency of this state to perform the functions conferred upon it in this chapter. The committee shall be composed of ex officio members to consist of the governor, the commissioner of agriculture, the director of the state extension service, and the president of the North Dakota association of soil conservation districts, and regular members to consist of four soil district supervisors. Such regular members first appointed shall be appointed by

the present state soil conservation committee from a list of at least eight supervisors submitted by the state association of soil district supervisors. The term of appointment for the regular members shall be for two years each, except that in the first appointment of regular members two shall be appointed for two-year terms, and two shall be appointed for one-year terms. The governor may appoint a representative to serve in his stead at such meetings as he may be unable to attend. The members of the committee shall receive no compensation for serving on such committee other than their traveling expenses necessarily incurred in carrying out the duties prescribed for such committee under the terms of this chapter. The committee shall keep a record of its official actions, shall adopt a seal which shall be judicially noticed, and may perform such acts, hold such public hearings, and promulgate such rules and regulations as may be necessary for the execution of its functions under this chapter.

§ 10. Amendment.) Section 4-23-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-23-13. State Committee—Members—Duties.) The state agency shall provide by regulations for the selection by the chairman of all the county committees provided for in section 4-23-12 of five persons of legal age, residents in this state, who shall be selected with reference to their qualification by actual farming experience and understanding of the agricultural problems of this state, to act as farmer members of the State Committee. No two persons who are residents in the same agricultural district shall be members of the state committee at the same time. The commissioner of agriculture and the director of the extension service shall be ex officio members of the state committee without the power to vote. The state committee shall advise the state agency with regard to all matters of major importance in carrying out the provisions of this chapter.

§ 11. Amendment.) Section 4-27-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-27-04. North Dakota Dairy Products Promotion Commission.) There is hereby created a North Dakota dairy products promotion commission consisting of seven members of which the governor shall appoint four members, two of said appointive members shall be producers and two of said appointive members shall be processors. The governor shall appoint the producer members from a list of nominees supplied by the American dairy association of North Dakota and the processor members from a list of nominees supplied by the North Dakota

dairy industries association. Each list of nominees shall contain at least twice as many names as the number of appointments to be made therefrom. The term of office of each appointive member of the commission shall be two years, except that the initial appointments of one producer and one processor shall be for only one year, so that thereafter the terms of one producer and one processor will expire each year. Terms of office shall commence on the first day of July. In addition to the four appointive members there shall be three ex officio members of such commission who shall be the commissioner of agriculture, the head of the dairy husbandry department of the North Dakota agricultural college, and a state executive committee member of the American dairy association of North Dakota to be designated by that association. The ex officio members shall meet with the commission and shall have the same rights and duties as the appointive members including the right to vote.

§ 12. Amendment.) Section 23-22-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-22-02. Rabies Extermination Team.) The rabies control committee shall establish a rabies extermination team which shall be composed of such members of the game and fish department and the predatory animal and rodent control division of the department of agriculture as the committee may direct. It shall be the duty of the extermination team, upon direction of the rabies control committee, to exterminate or quarantine those animals suspected of having rabies and to carry out such other preventative measures as the committee may from time to time direct.

§ 13. Amendment.) Section 53-01-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

53-01-02. State Athletic Commission—How Constituted—Appointment—Term.) The state athletic commission shall consist of three members, who shall be electors of this state, of good moral character, and over twenty-one years of age. One member shall be a practicing physician in the state, one a practicing attorney, and the third member shall be the commissioner of agriculture, who shall be chairman of the commission by virtue of his office. Such physician and attorney shall be appointed by the governor, each for a term of three years, and until their successors are appointed and qualified, but shall be removable at the pleasure of the governor.

§ 14. Amendment.) Section 54-16-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-16-01. Emergency Commission—Members—Organization Meetings—Duties.) The emergency commission shall consist of the governor, the commissioner of agriculture, and the secretary of state. Whenever an allocation or allocations out of the state contingency fund in excess of ten thousand dollars, during the biennium, is to be made to any institution or department of government, the chairman of the senate appropriations committee and the chairman of the house of representatives appropriations committee shall be members of the emergency commission. The governor shall be chairman of the commission, and the secretary of state, the secretary. The emergency commission shall meet upon the call of the chairman. The commission shall exercise the powers and perform the duties imposed upon it by law.

§ 15. Amendment.) Section 54-17-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-17-02. Industrial Commission — Members — Quorum — Meetings.) The industrial commission of North Dakota shall consist of the governor, the attorney general, and the commissioner of agriculture. The governor and one member shall constitute a quorum for the transaction of business. The meetings of the commission shall be held at such times and places as the governor or a majority of the commission may determine. It shall be provided by the proper authorities with suitably furnished offices at the seat of government.

§ 16. Amendment.) Section 54-21-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-21-02. Board of Administration—Members—Appointment —Term of Office—Removal.) The board of administration shall consist of five members. The superintendent of public instruction and the commissioner of agriculture shall be ex officio members and the other three members shall be appointed by the governor for a term of six years each, with the terms of office so arranged that one term only shall expire on the first day of July of each odd-numbered year. Each appointed member of the board shall hold his office until his successor is appointed and qualified. The governor may remove any appointed member of the board for cause.

§ 17. Amendment.) Section 54-36-01 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-36-01. Commission—Members—Officers—Expenses of Certain Members.) The North Dakota Indian affairs commission shall consist of the governor, commissioner of agri-

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

§ 18. Amendment.) Section 55-01-01 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

***55-01-01. State Historical Board.)** 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 of North Dakota to serve as a board of directors to be known as the state historical board. 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. The governor will make his appointments from a list submitted by the membership group. 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. 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 board. The secretary of state, state engineer, state highway commissioner, state

***Note:** Section 55-01-01 was also amended by section 1, chapter 411, 1965 S.L.

forester, state game and fish commissioner, director of state library commission, and state treasurer shall be ex officio members of the board and shall take care that the interests of the state are protected.

§ 19. **Amendment.)** Section 57-13-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-13-01. Membership of Board.) The governor, state treasurer, state auditor, commissioner of agriculture, and state tax commissioner shall constitute the state board of equalization. The governor shall be chairman of the board and the tax commissioner is secretary.

§ 20. **Amendment.)** Section 61-02-04 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-02-04. State Water Conservation Commission—Members—Terms—Qualifications.) The state water conservation commission shall consist of the governor, commissioner of agriculture, and 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.

Approved February 15, 1967.

CHAPTER 75

H. B. No. 928

(Tweten, Moquist, Larson(16), Kingsbury)

STATE POTATO COUNCIL

AN ACT

Relating to the promotion, advertising, research and development of Irish potatoes; creating a state potato council and prescribing its powers, duties and authority; prescribing a tax on potato production; providing for its collection; making an appropriation; and providing penalties for the violation of this Act; and declaring an emergency.

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

§ 1. Title of Act.) This Act shall be known as the potato industry promotion Act of North Dakota.

§ 2. Legislative Policy.) It is hereby declared that the production, development, marketing, and promotion of Irish potatoes in North Dakota is important to the general welfare of the people of the state of North Dakota; that it is in the public interest that better methods of production, processing, and marketing of potatoes and the advertising and promoting of potatoes grown in the state of North Dakota be fostered, encouraged, developed, and improved so that the potato industry within the state of North Dakota, the people employed by said industry, directly or indirectly, and the people of the state of North Dakota should be benefited thereby, the accomplishment of which, requires and demands the establishment of a North Dakota state potato council for the purposes and with the objectives of contributing to the stabilization and improvement of the agricultural economy of this state. The provisions of this chapter shall not be construed to abrogate or limit in any way the rights, powers, duties, and functions of the office of the commissioner of agriculture or any other agency of the state but shall be supplementary thereto and in aid and cooperation therewith; nor shall the provisions of this Act be construed to authorize the North Dakota state potato council to engage in competitive business enterprises, it being the intended purpose of this chapter that the council through research and advertising, shall promote North Dakota grown Irish potatoes.

§ 3. Definitions.) Whenever used in this Act:

1. "Council" means the North Dakota potato council.

2. "Grower" means any person who plants, raises, and harvests Irish potatoes from more than ten acres.
3. The term "potatoes" shall mean any and all varieties of Irish potatoes harvested within the state of North Dakota.
4. "Participating grower" means a grower who has not exempted himself from the payment of taxes on potato production under this Act for a particular year, or a grower who is not exempt from the payment of taxes on potato production under the terms of this Act.
5. "Commissioner" shall mean commissioner of agriculture.

§ 4. North Dakota State Potato Council — Membership — Election — Term.) There is hereby established a North Dakota state potato council. The council shall be composed of the commissioner of agriculture or his designated representative, who shall be chairman of the council except that he shall not have the right to vote, and one participating grower elected from each of the districts hereinafter established. Every elected council member shall be a citizen of the state and a bona fide resident of and participating grower in the district he represents. The term of each elected member shall be three years and shall begin on July first of year of election, except that initially one member shall be elected for a three-year term; two members shall be elected for two-year terms; and two members shall be elected for one-year terms as designated by the commissioner. If at any time during a member's term he shall cease to possess any of the qualifications provided for in this Act, his office shall be deemed vacant and the council shall appoint another qualified participating grower for the remainder of the term of the office vacated. The commissioner shall conduct all elections under this section in each district in such a manner as he, in his discretion, deems fair and reasonable. All such elections shall be conducted in the month of June. No elected member of the council shall be eligible to serve more than two consecutive three-year terms.

§ 5. Potato Districts—Establishment.) It being the intent of this Act to divide the state into districts containing as nearly equal potato acreages as practicable, the following potato districts are established:

1. District one shall consist of the counties of Pembina and Cavalier.
2. District two shall consist of all townships in Walsh County in and west of range 54.
3. District three shall consist of all those townships in Walsh County in and east of range 53.

4. District four shall consist of the counties of Grand Forks, Nelson and Benson.
5. District five shall consist of the counties of Traill, Cass, Richland, Steele, Barnes, Griggs, Stutsman, Foster, Eddy, LaMoure, Dickey, Ransom, Sargent, Logan, McIntosh, Burleigh, Kidder, Sheridan, Wells, Burke, Divide, Mountrail, Renville, Ward, Williams, McHenry, Pierce, Dunn, McKenzie, McLean, Mercer, Oliver, Adams, Billings, Bowman, Golden Valley, Hettinger, Slope, Stark, Emmons, Grant, Morton, Sioux, Towner, Rolette, Bottineau and Ramsey.

§ 6. Meetings—Quorum—Compensation and Expenses of Council.) A majority of the voting members of the council shall constitute a quorum for the transaction of all business in carrying out the duties of the council. All meetings of the council shall be called by the chairman except special meetings which shall be called by the chairman on the petition of three council members within seven days of receiving such a petition. Each member of the council, except the chairman, shall receive the sum of twenty-five dollars per day for each day spent in performance of the business of the council, together with traveling expenses while on council business on the same basis as employees of the commissioner.

§ 7. Expenditure of Funds.) Every expenditure of funds made pursuant to this Act shall be approved by the council, submitted upon itemized voucher to the state auditing board for approval, and paid by warrant check issued by the department of accounts and purchases.

§ 8. Potato Council Powers and Duties.) In the administration of this Act, the council shall have the following powers and duties:

1. To contract and cooperate with any person, firm, corporation, or association, or with any local, state or federal department or agency for research, education, publicity, promotion, and transportation for the purposes of this Act.
2. To expend the funds collected pursuant to the provisions of this Act and appropriated for its administration.
3. To appoint, employ, bond, discharge, fix compensation for, and prescribe the duties of such administrative, clerical, technical, and other personnel as it may deem necessary.
4. To accept donations of funds, property, services, or other assistance from public or private sources for the purpose of furthering the objectives of the council.

5. To investigate and prosecute in the name of the state of North Dakota any action or suit to enforce the collection or ensure payment of the taxes authorized by the provisions of this Act, and to sue and be sued in the name of the council.

§ 9. Tax Levied.) There is hereby levied and imposed upon all land from which potatoes are harvested by a grower as defined herein an annual tax of one dollar per acre. Every potato grower shall report to the council by August fifteenth following the effective date of this Act and on July fifteenth of each year thereafter, on forms provided by the council, the acreage of potatoes planted in this state, on acreages controlled by him. On or before November fifteenth of each year every grower shall file with the council, on forms furnished by it, a statement reporting the acres of potatoes harvested. The remittance of the tax at the rate as provided in this section shall accompany the report. All moneys levied and collected under this Act shall be paid to the council for deposit in the state treasury to be deposited to the credit of a fund designated "spud fund" to be used exclusively to carry out the intent and the purposes of this Act.

§ 10. Appropriation of Funds.) There is hereby appropriated the sum of \$250,000.00 out of any moneys in the spud fund to the state potato council for the purpose of carrying out the provisions of this Act. The provisions of section 54-27-10 of the Code shall not apply to appropriations from the spud fund nor shall any part thereof revert at the expiration of any biennium.

§ 11. Storage Breakdown Loss—Tax Refund.) A grower who sustains a complete storage breakdown may file a claim for a refund of that portion of the tax for the crop year affected based upon the acreage from which the yield was lost. Growers claiming relief under this section shall make application in writing to the council on or before April first of such crop year. All claims for refund under this section shall be under oath and attested by three other growers informed of the facts.

§ 12. Nonparticipating Growers—Refunds.) Growers may become nonparticipating growers and claim exemption from the provisions of this Act. To claim exemption, a nonparticipating grower shall notify the council, in writing, on or before July fifteenth of each year, at the time of the initial report as provided in section 9 of this Act of his intention to not participate under the program and to claim refund of the taxes herein levied for that crop year. Such grower, if he has notified the council of his intention not to participate, as herein provided, shall be eligible between December first

and December fifteenth of each year, to claim a refund of the taxes paid in that crop year, paid pursuant to this enactment. Upon the receipt of a claim for refund by personal letter from an eligible, nonparticipating grower, the council shall refund the taxes paid in such crop year.

§ 13. Referendum by Growers.) Whenever fifteen percent of the participating growers, but not more than fifty percent of the signatory parties from any one district, as disclosed by the records of the council for the preceding year, shall petition the council, the council shall conduct a referendum among the participating growers of the state to determine whether they wish the legislature to raise or lower the tax imposed by section 9 of this Act. Such referendum shall be conducted only among participating growers who have paid all taxes assessed pursuant to this enactment for the preceding year, and the ballots shall be prepared by the council and mailed to each participating grower at least thirty days prior to the last date for filing ballots. In addition, each ballot shall be accompanied by a notice to each participating grower:

1. Of the date of the filing of the petition by the growers for the referendum and the number of signatures contained thereon.
2. Of the date and place where the council will open and tabulate the ballots, which date shall be not less than five days after the last date for filing the ballots.
3. Of the last date upon which ballots shall be filed with the council, or postmarked if delivered to the council by mail.
4. That any participating grower may attend the meeting of the council at the time the ballots are opened and the votes tabulated.

If a majority of the participating growers voting upon the question are in favor of the proposed change, the council shall certify the result to the commissioner with the request that the department prepare a bill to submit to the legislature at the next legislative session to modify this Act in conformity therewith. The results of such referendum shall be advisory only and the legislature shall in no way be obligated to adopt legislation enacting the proposals contained in any referendum.

§ 14. Collection of Unpaid Taxes.) If a participating grower fails to pay the tax provided herein, the collection thereof may be enforced by the council in any court with competent jurisdiction within this state.

§ 15. Misdemeanor to Violate Provisions of This Act.) Any person who willfully violates the provisions of this Act is guilty of a misdemeanor.

§ 16. Penalty for Nonpayment of Taxes.) Any participating grower who shall fail to pay any tax levied by this Act on the date that the same becomes due shall be delinquent and the council shall levy a penalty on such delinquent payments of ten percent of the tax due, plus interest at the rate of six percent per annum from the due date, which penalty and interest shall be collected in the manner as described in section 14 of this Act.

§ 17. Record of Council—Inspection.) All of the records of the council, including acreage reports, tax returns, claims of exemption, and any other data, records, or information retained by the council shall be public information and shall be available for the inspection of any person for any lawful purpose; provided, however, that the council shall be empowered to make rules and regulations concerning the inspection of such information or data, and the time or place of such inspection or the manner which the information shall be made available.

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

Approved March 14, 1967.

CHAPTER 76

S. B. No. 208
(Wenstrom, Morgan)

BEEKEEPERS

AN ACT

To create and enact sections 4-12-03.1 and 4-12-03.2 of the North Dakota Century Code, relating to the establishment, registration, and retention of beehive or colony location rights, and to amend and reenact sections 4-12-01, 4-12-03, 4-12-20, and 4-12-22 of the North Dakota Century Code, relating to definitions concerning bees, beekeepers' licenses, the penalty for unlawful transportation or maintenance of bees, inspection fees paid for bees being brought into the state, and declaring an emergency.

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

§ 1. **Amendment.)** Section 4-12-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-12-01. Definitions.) In this chapter, unless the context or subject matter otherwise requires:

1. "Beekeeper" shall mean any person, firm, association, or corporation owning, possessing, or controlling one or more colonies of bees for the production of honey, bees-wax, or byproducts either for personal or commercial use.
2. "Apiary" shall mean any place where one or more hives or colonies of bees are kept.
3. "Person" and "owner" shall mean natural persons, firms, associations, or corporations.
4. "Equipment" shall mean hives, supers, frames, veils, gloves, or any apparatus, tools, machines, or other devices used in the handling and manipulation of bees, honey, wax, and hives, and shall also include any containers of honey and wax which may be used in any apiary or in transporting bees and their products and apiary supplies.
5. "Bees" shall mean any stage of common honey bee, *Apis Mellifera L.*
6. "Commercial locations" shall mean apiaries where twenty-five or more hives or colonies of bees are kept.

7. "Commercial operator" shall mean any beekeeper who maintains two hundred and fifty or more hives or colonies of bees.

§ 2. **Amendment.)** Section 4-12-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-12-03. Beekeeper's License Required.) Every beekeeper, on or before the first day of May in each year or within twenty days thereafter, shall make application to the commissioner of agriculture, on a form to be furnished by him, for a license certificate, and such certificate shall be granted to every beekeeper who makes a satisfactory application in the form prescribed by the commissioner and pays the license fee required in this chapter. Any person procuring or coming into possession of bees within ten days thereafter shall make an application to the commissioner of agriculture for a license. Each applicant shall include on his application a legal description, to the nearest quarter section, of each apiary maintained by him. The application shall also set out the number of hives or colonies of bees maintained at each apiary described in the application.

§ 3.) Section 4-12-03.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

4-12-03.1. Establishment of Locations—Exception—Location Rights.) No new commercial apiary may be established within three miles of an existing commercial bee apiary of another commercial operator. Provided, however, if any seed grower requests the commissioner of agriculture to allow additional locations for the purpose of pollinating his crop, the restriction prohibiting the maintaining of locations within three miles of one another shall not apply. The name and address of each apiary shall be displayed at each location. The property owner will be exempt from this subsection.

§ 4.) Section 4-12-03.2 of the North Dakota Century Code is hereby created and enacted to read as follows:

4-12-03.2. Retention of Locations.) A commercial operator may register prospective commercial locations with the commissioner of agriculture if such locations contained in the application do not exceed in number twenty-five percent of the number of active commercial locations maintained by him. All commercial locations must be occupied by July first, at least every other year.

§ 5. **Amendment.)** Section 4-12-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-12-20. Penalty—Confiscation for Unlawful Transportation or Maintenance.) Any person who violates any of the provisions of this chapter, or any regulation or order made pursuant thereto, shall be guilty of a misdemeanor and any bees, brood, combs for breeding, or used beekeeping appliances and equipment unlawfully transported or maintained may be confiscated by the state bee inspector.

§ 6. Amendment.) Section 4-12-22 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-12-22. Shipments into State—Permit—Fees.) Before any person transports into this state any bees on comb, used hives, or used apiary equipment he shall obtain from the state bee inspector a permit for such transportation. A copy of the certificate of health issued by the official bee inspector of the state or country of origin, a complete description of the shipment, and such other information as may be required by regulations established by the commissioner of agriculture shall be provided the state bee inspector who shall upon receipt of this information issue the required permit. Immediately upon the arrival of any bees into this state the owner thereof shall comply with provisions of this chapter relating to the registration of bees. Upon the issuance of the permit authorized in this section, a nonresident applicant shall pay to the commissioner of agriculture an entrance fee of one dollar and fifty cents for each hive or colony of bees transported into the state of North Dakota. Provided, however, no applicant for a permit shall be charged more than one entrance fee for any hive or colony of bees, regardless of the number of times the colony or hive of bees is transported into or out of the state. The permit fee authorized in this section shall apply only if the state from which the hives or colonies of bees were imported requires entrants to pay an inspection or entrance fee for hives or colonies of bees brought into that state.

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

Approved February 28, 1967.

CHAPTER 77

H. B. No. 600
(E. Johnson(23), Bier)

BOND OF MILK PURCHASERS

AN ACT

To amend and reenact section 4-30-03 of the 1965 Supplement to the North Dakota Century Code, relating to the amount of bond to be furnished by applicants for license to purchase milk or cream from dairy producers.

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

§ 1. Amendment.) Section 4-30-03 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-30-03. Bonding of Purchasers of Dairy Products.) Each applicant for license under section 4-30-02, 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. The amount of such surety bond or certified bank draft shall be determined on the basis of average purchases of such milk or cream from dairy producers during the previous year, and in no event shall be less than \$1,000.00. Where payment for such milk or cream purchased from dairy producers is made on a weekly basis, the amount of such surety bond or certified bank draft shall be in an amount equal to the average weekly purchases of such milk or cream. Where payment for such milk or cream purchased from dairy producers is made on a semimonthly basis, the amount of such surety bond or certified bank draft shall be in an amount equal to the average semimonthly purchases of such milk or cream. Where the period of payment for such milk or cream purchased from dairy producers is made on a basis involving periods of time greater than semimonthly, the amount of such surety bond or certified bank draft shall be in an amount equal to the average purchases of such milk or cream for such periods of time. 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.

Approved March 14, 1967.

CHAPTER 78

H. B. No. 599
(Johnson(23), Bier)

REPORTS OF MILK PRODUCTS

AN ACT

To amend and reenact section 4-30-46 of the 1965 Supplement to the North Dakota Century Code, relating to the reporting of milk and milk products.

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

§ 1. **Amendment.)** Section 4-30-46 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-30-46. 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, 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 to the commissioner on the last day of June and of December of each year, or within thirty days thereafter, or immediately upon cessation of operation, the pounds of butterfat in cream, the pounds of manufacturing grade milk, and the pounds 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.

Approved February 24, 1967.

CHAPTER 79

H. B. No. 596

(Gackle, Duncan, Tollefson, Welder, Glaspey)

MILK STABILIZATION BOARD

AN ACT

Relating to the establishment of a milk stabilization board to regulate prices and trade practices within the fluid milk industry which industry is declared to be within the police power, making an appropriation, and providing a penalty.

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

§ 1. Declaration of Policy Relating to Milk.) It is hereby declared:

1. That milk is a necessary article of food for human consumption.
2. That the production and maintenance of an adequate supply of healthful milk of proper chemical and physical content, free from contamination, is vital to the public health and welfare.
3. That the production, transportation, processing, storage, distribution and sale of milk, in the state of North Dakota, is an industry affecting the public health and interest.
4. That unfair, unjust, destructive, and demoralizing trade practices have been and are now being carried on in the production, transportation, processing, storage, distribution, and sale of milk, which trade practices constitute a constant menace to the health and welfare of the inhabitants of this state and tend to undermine the sanitary regulations and standards of content and purity of milk.
5. That health regulations alone are insufficient to prevent disturbances in the industry and to safeguard the consuming public from further inadequacy of a supply of this necessary commodity.
6. That it is the policy of this state to promote, foster, and encourage the intelligent production and orderly marketing of fluid milk and cream, to eliminate speculation and waste, and to make the distribution thereof between the producer and consumer as direct as can be efficiently and economically done, and to stabilize the marketing of such commodities.

7. That investigations have revealed and experience has shown, that due to the nature of milk and the conditions surrounding the production and marketing of milk, and due to the vital importance of milk to the health and well being of the citizens of this state, it is necessary to invoke the police powers of the state to provide a constant supervision and regulation of the milk industry of the state to prevent the occurrence and recurrence of those unfair, unjust, destructive, demoralizing, and chaotic conditions and trade practices within the industry, which have in the past affected the industry and which constantly threaten to be revived within the industry and to disrupt or destroy an adequate supply of pure and wholesome milk to the consuming public and to the citizens of this state.
8. That fluid milk is a perishable commodity, which is easily contaminated with harmful bacteria, which cannot be stored for any great length of time, which must be produced and distributed fresh daily, and the supply of which cannot be regulated from day to day, but, due to natural and seasonal conditions, must be produced on a constantly uniform and even basis.
9. That the demand for this perishable commodity fluctuates from day to day and from time to time making it necessary that the producers and distributors shall produce and carry on hand a surplus of milk in order to guarantee and insure to the consuming public an adequate supply at all times, which surplus must of necessity be converted into byproducts of milk at great expense and at times at a loss to the producer and distributor.
10. That this surplus of milk, though necessary and unavoidable, unless regulated, tends to undermine and destroy the fluid milk industry, which causes producers to relax their diligence in complying with the provisions of the health authorities and oftentimes to produce milk of an inferior and unsanitary quality.
11. That investigation and experience have further shown that, due to the nature of milk and the conditions surrounding its production and marketing, unless the producers, distributors, and others engaged in the marketing of milk are guaranteed and insured a reasonable profit on milk, both the supply and quality of milk is affected to the detriment of, and against the best interest of the citizen of this state whose health and well being is thereby vitally affected.

12. That, where no supervision and regulation is provided for the orderly and profitable marketing of milk, past experience has shown that the credit status of both producers and distributors of milk is adversely affected to a serious degree, thereby entailing loss and hardship upon all within the community with whom these producers and distributors carry on business relations.
13. That, due to the nature of milk and the conditions surrounding its production and distribution, the natural law of supply and demand has been found inadequate to protect the industry in this and other states, and in the public interest it is necessary to provide state supervision and regulation of the fluid milk industry in this state.

§ 2. **Purpose.)** The purpose of this law is to protect and promote public welfare and to eliminate unfair and demoralizing trade practices in the fluid milk industry. It is enacted in the exercise of the police powers of the state.

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

1. "Board" means the state agency created by this Act, to be known as the North Dakota milk stabilization board.
2. "Person" means any person, firm, corporation, or association.
3. "Producer" means any person who produces milk for fluid consumption within the state, selling same at producer price to a processor.
4. "Processor" means any person purchasing milk from producer to be processed and distributed for fluid consumption within the state.
5. "Distributor" means any person purchasing milk from a processor and distributing same for fluid consumption within the state.
6. "Retailer" means any person who buys milk from a dealer licensed under this Act, for resale over the counter at retail, or for consumption on the premises.
7. "Dealer" means any processor or distributor.
8. "Licensee" means any person who holds a license from the board.
9. "Association" means any organized group of dealers in a community or marketing area which has been constituted under regulations satisfactory to the board.

10. "Market" means any area of the state designated by the board as a natural marketing area.
11. "Consumer" means any person or any agency, other than a dealer, who purchases milk for consumption or use.
12. "Milk" means fluid milk and cream sold for consumption as such, and for the purposes of this Act shall be classified as follows:
 - a. Class I milk shall include all bottled or packaged milk, raw, pasteurized, and homogenized, low fat, (two percent), buttermilk, chocolate milk, whipping cream, coffee cream, half-and-half, and skim milk.
 - b. Class II milk shall include all cottage cheese and milk used for mix.

The board shall have power and authority to assign fluid milk products hereafter developed to the class which in its discretion it determines to be proper.

§ 4. Milk Stabilization Board.) There is hereby created a milk stabilization board to consist of five members, who shall be appointed by the governor. The board shall consist of one person who is a producer selling to a processor, who shall be selected by the governor from two names submitted to him by the North Dakota milk producers association; one person who is a processor, who shall be selected by the governor from two names submitted to him by the North Dakota dairy industries association; one person who is a retailer, who shall be selected by the governor from two names submitted to him by the North Dakota association of food retailers; and two persons shall be selected by the governor who are consumers, and who are not otherwise engaged in the milk business. No appointee shall have held elective or appointive public office during the period of two years immediately preceding his appointment and no appointee shall hold any other public office, either elective or appointive, during his term of office as a member of the milk stabilization board; and not more than three members of the said milk stabilization board shall, at the time of the appointment or thereafter during their respective terms of office, be members of the same political party or residents of the same congressional district.

The members of said milk stabilization board shall be appointed within thirty days after passage and approval of this Act. The term of office of one member shall expire on July 1, 1968; the term of office of one member shall expire on July 1, 1969; the term of office of one member shall expire on July 1, 1970; the term of office of one member shall expire on July 1, 1971; the term of office of one member shall expire on July 1,

1972; and each succeeding member shall hold his office for a term of five years and until his successor shall have been appointed and qualified. Any vacancy shall be filled by appointment by the governor as heretofore stated.

Three members of the board shall constitute a quorum for the regular transaction of business. The board shall choose one of its own members as the chairman, who shall hold office as a chairman for one year; provided, election as chairman shall not interfere with the member's right to vote on all matters before the board.

Each member of the board shall receive twenty-five dollars per diem for each day actually spent in the performance of his official duties, plus mileage and expenses as are allowed to other state officers, but in no event shall a member's per diem payments exceed fifteen hundred dollars in any one year.

Each member of the board shall give bond conditioned for the faithful performance of his duties in the manner required by law in the sum of five thousand dollars.

The board may employ necessary assistants and appoint agents and instrumentalities but all expenditures under this Act shall be paid from the receipts hereunder.

The board shall have the power and it shall be its duty to designate an executive secretary who shall serve under the direction and at the pleasure of the board and who shall have charge of the administration of the board's orders, rules, and regulations, and who shall also serve as financial officer of the board and who shall be authorized to accept or receive money paid or to be paid to the board, either as license fees or fines as provided by this Act. Such person shall, before he enters upon the discharge of his duties, execute and file a bond in such amount as may be fixed by the board, as may be provided by law for public officers.

Meetings of the board shall be had at least every sixty days at the call of the chairman or a majority of the board. The salary of the secretary is to be fixed by the board and the state board of examiners. The board shall so enforce the Act that there shall be no discrimination against any dealer, consumer or producer.

§ 5. Powers and Duties of the Milk Stabilization Board.)

1. The board is hereby vested with the powers, and it shall be its duty to supervise, regulate, and control the fluid milk industry of the state of North Dakota, including the production, transportation, processing, storage, distribution, and sale of milk in the state of North Dakota for consumption within the state; providing, however, that nothing contained in this Act

shall be construed to abrogate or affect the status, force, or operation of any provision of public health laws or the law under which the North Dakota department of agriculture is constituted together with the North Dakota department of agriculture regulations or county board of health regulations, or municipal ordinances for the promotion or protection of the public health, but the board shall have the power to cooperate with the state board of health, the North Dakota department of agriculture or any district, county, or city board of health in enforcing the provisions of this Act.

2. The board shall have the power to investigate all matters pertaining to the production, transportation, processing, storage, distribution, and sale of milk in the state of North Dakota and to conduct hearings upon any subject pertinent to the administration of this Act. Process and procedure under this title shall be governed by the provisions of chapter 28-32 of the North Dakota Century Code.

3. The board may act as mediator or arbitrator to settle any controversy or issue pertaining to fluid milk among or between producers, processors, distributors, retailers, or consumers.

4. The operation and effect of any provision of this Act, conferring a general power upon the milk stabilization board, shall not impair or limit any specific power or powers granted to the milk stabilization board by this Act.

§ 6. Markets.) Pursuant to the declaration of policy relating to milk set forth in section 1 of this Act, the milk stabilization board is vested with the duty and authority to designate natural marketing areas which shall together embrace all the geographical area of the state and to prescribe and enforce minimum producer, distributor, and retail prices in such areas in the manner set forth in this Act:

1. Natural marketing areas shall be established forthwith throughout the state by the board; provided that before any proposed natural marketing area is established the board, after notice of at least thirty days, shall hold a hearing or hearings, at a place or places within the proposed area, at which producers, processors, and distributors doing business within said proposed natural marketing area, who are licensed by the North Dakota department of agriculture, and the consuming public may present evidence and testify, and in the event the hearing or hearings make it evident to a majority of the board that the establishment of such proposed natural marketing area is in the public interest, the board shall make findings and conclusions and proceed to establish such natural marketing area.

2. The board shall have the power, from time to time and at its discretion, to adjust and alter the boundaries of natural marketing areas after they have been established, if after a hearing upon notice of at least thirty days to all interested parties it finds and orders such adjustment to be in the public interest.
3. The board shall at all times maintain current information on quantities of surplus grade A milk available in the various marketing areas throughout the state, and such information shall be available to all interested parties on request.

§ 7. Orders Establishing Minimum Prices.) Prior to the establishment of prices in any market the board shall conduct a public hearing and admit evidence under oath relative to the matters of its inquiry, at which hearing the consuming public shall be entitled to offer evidence and be heard the same as persons engaged in the milk industry. The board shall by means of such hearing or from facts within its own knowledge, investigate and determine what are reasonable costs and charges for producing, hauling, handling, processing, or other services performed in respect to milk and what prices for milk in the several localities and markets of the state, and under varying conditions, will best protect the milk industry in the state and ensure a sufficient quantity of pure and wholesome milk to adults and minors in the state, and be most in the public interest.

The board shall take into consideration the balance between production and consumption of milk, the cost of production and distribution, and prices in adjacent and neighboring areas and states, so that minimum prices which are fair and equitable to producers, processors, distributors, retailers, and consumers may result.

The board shall, at least ten days prior to the date set for any public hearing on minimum prices, cause notice to be given to the consuming public and the milk industry of the specific factors which shall be taken into consideration in determining costs of production and distribution and of the actual dollars and cents costs of production and distribution which preliminary studies and investigations of auditors or accountants in its employment indicate will or should be shown at the hearing, so that all interested parties will have opportunity to be heard and to question or rebut such considerations as a matter of record.

If the board at any time proposes to base all or any part of any official order establishing minimum prices upon facts within its own knowledge, as distinguished from evidence

which may be presented to it at a public hearing by the consuming public or the milk industry, the board shall, at least ten days prior to the date set for any public hearing on minimum prices, cause notice to be given to the consuming public and the milk industry of the specific facts within its own knowledge which it will consider, so that all interested parties will have opportunity to be heard and to question or rebut such facts as a matter of record.

The board, after consideration of the evidence produced at such hearing, shall make written findings and conclusions and shall establish by official order:

1. The minimum prices to be paid by the milk dealers to producers and others for milk. Each order establishing minimum prices shall classify milk by forms, classes, grades or uses as the board may deem advisable and shall specify the minimum prices therefor, with a differential for each of the two classes of milk.

The milk produced in one natural marketing area and sold in another natural marketing area shall be paid for by a processor in accordance with the pricing order of the area where processed at the price therein specified of the class or use in which it is ultimately used or sold. No allowance for freight, other than freight for transportation of milk from the farm to plant, shall be charged to a producer by a processor unless it is found and ordered by the board, after notice and hearing in the manner hereinbefore specified, that such an additional freight allowance is necessary to permit the movement of milk in the public interest. All milk purchased within a natural marketing area by a processor shall be purchased on a uniform basis. The basis to be used shall be established by the board after the producers and the processors of the area have been consulted.

2. The minimum distributor prices to be charged for milk in its various forms, classes, grades, and uses when sold by a processor to a distributor.
3. The minimum wholesale prices to be charged for milk in its various forms, classes, grades, and uses when sold by processors or distributors to retail stores, restaurants, boardinghouses, fraternities, sororities, confectionaries, public and private schools, including colleges and universities, and both public and private institutions and instrumentalities of all types and description.
4. The minimum retail prices to be charged for milk in its various forms, classes, grades, and uses when sold by processors or distributors, and retail stores to consumers.

A minimum producer, distributor, wholesale, or retail price to be charged for milk shall not be established higher than is necessary to cover the cost of ordinarily efficient and economical milk dealers, including a reasonable return upon necessary investment.

The board may, upon its own motion, or upon application in writing from any market, or from any party at interest, alter, revise or amend any official order theretofore made by the board; provided, that before making, revising, or amending any order establishing prices to be charged or paid for milk in any of its forms, classes, grades or uses, the board shall hold a public hearing on such matter in the same manner provided herein for the original establishment of prices.

§ 8. Licenses to Processors and Distributors.) In any market, where the provisions of this Act apply, it shall be unlawful for any processor or distributor to transport, process, store, handle, distribute, buy, or sell milk unless such dealer be duly licensed as provided by this Act. It shall be unlawful for any such person to buy, sell, handle, process, or distribute milk which he knows or has reason to believe has been previously dealt with or handled in violation of any provision of this Act. The board may decline to grant a license, or may suspend or revoke a license already granted, upon due cause and after hearing.

§ 9. Licenses—Milk Control Fund.) No processor or distributor shall engage in the business of processing or distributing milk subject to this Act in this state without first having obtained a license from the North Dakota department of agriculture and without being licensed under this Act by the milk stabilization board. The annual fee for such license from the milk stabilization board shall be two dollars, and shall be due and payable on or before the first day of July, commencing in the year 1967.

In addition to said annual license fee, the board shall in each year, on or before the first day of April, for the purpose of securing funds to administer and enforce this Act, levy an assessment upon processors and distributors of five cents per hundredweight on the total volume of all milk subject to this Act sold by either a processor or a distributor. Milk which is sold by a processor licensed under this Act to a distributor upon which said fee has been paid shall be exempt from further payment.

Said assessment upon processors and distributors shall be paid quarterly on or before the fifteenth day of July, October, January, and April of each year, commencing in July of 1967, and the amount of such assessment shall be computed by apply-

ing the fee designated by the board to the volume of milk sold in the calendar quarter immediately preceding.

Failure of any processor or distributor to pay any assessment when due shall constitute violation of this Act and his license under this Act shall thereupon automatically terminate and be null and void and of no effect. Reinstatement of a license so terminated shall be effected by payment of all delinquent assessments plus a delinquency fee equal to thirty percent of all delinquent assessments.

All license fees and assessments hereinbefore required to be paid shall be deposited by the milk stabilization board in the state treasury in a special fund to be known as the milk stabilization fund. All costs of administering this Act, including the salaries of employees and assistants, per diem and expenses of board members, and all other disbursements necessary to carry out the purpose of this Act, shall be paid out of said milk stabilization fund within the limits of legislative appropriations.

§ 10. Application for Licenses.) An applicant for license to operate as a processor, or distributor shall file a signed application upon a blank prepared under the authority of the board, and an applicant shall state such facts concerning his circumstances and the nature of the business to be conducted as in the opinion of the board are necessary for the administration of this Act. Such application shall certify the applicant to be the holder of all licenses required by the North Dakota department of agriculture for the conduct of his business and such application shall be accompanied by the license fee required to be paid.

§ 11. Declining, Suspending, and Revoking Licenses.) The board may decline to grant a license or may suspend or revoke a license already granted for due cause upon due notice and after hearing. The violation of any provisions of this Act or of any lawful order or regulation of the board, the failure or refusal to make required statements or reports, and aggravated delinquency in the payment of license fees or any of them shall be deemed causes for which the board may, at its discretion, suspend or revoke a license; provided, that no license shall be revoked except upon the approval of a majority of all members of the board.

§ 12. Rules and Orders.) The board may adopt and enforce all rules and all orders necessary to carry out the provisions of this Act in accordance with the provisions of chapter 28-32 of the North Dakota Century Code.

§ 13. Rules of Fair Trade Practices.) In addition to the general and special powers heretofore set forth, the board shall

have the power to make and formulate reasonable rules and regulations governing fair trade practices as they pertain to the transaction of business among licensees under this Act and among licensees and the general public. Such reasonable rules and regulations governing fair trade practices shall contain provisions regarding the following methods of doing business which are hereby declared unfair, unlawful, and not in the public interest:

1. The payment, allowance, or acceptance of secret rebates, secret refunds, or unearned discounts by any person, whether in the form of money or otherwise. All equipment furnished by a processor or by a distributor to a retailer shall be sold at a price not less than the cost price thereof, and shall not be given, loaned, or rented.
2. The giving of any milk, cream, dairy products, services or articles of any kind, except to bona fide charities, for the purpose of securing or retaining the fluid milk or fluid cream business of any customer.
3. The extension to certain customers of special prices or services not available to all customers who purchase milk of like quantity under like terms and conditions.
4. The purchasing, processing, bottling, packaging, transporting, delivering, or otherwise handling in any marketing area of any milk which is to be or is sold or otherwise disposed of at less than the minimum distributor, wholesale, and retail prices established by the board pursuant to this Act.
5. The payment of a less price than the applicable producer price established by the board pursuant to this Act by a processor to any producer for milk which is distributed to any person, including agencies of the federal, state or local government.

§ 14. Entry, Inspection, and Investigation.) The board shall employ auditors who shall have access to, and may enter, at all reasonable hours, all places where milk is processed, bottled, handled, or stored, or where the books, papers, records, or documents relative to such transactions are kept and shall have the power to inspect and copy the same in a place within the state, and may administer oath, and take testimony for the purpose of ascertaining facts, which, in the judgment of the board, are necessary to administer this Act, but any such information so derived shall be treated as confidential by the board and shall be used by it only for the administration of this Act and not for general public issue. Any such auditor, member of the board, and any person assisting the board in

the administration of this Act, who shall acquire any information, while in the employ of the board, in respect to the transactions, property, files, records or papers of the board, or who shall acquire any information, while in the employ of the board, in respect to the business or mechanical, chemical, or other industrial processes belonging to or employed by any person and who shall divulge the same to any other than members of the board or the superior of any such auditor or employee of the board, except when called upon to testify in any action or proceeding in any court, wherein the board is a party, shall be guilty of a misdemeanor.

§ 15. Reports of Dealers — Accounting System — Records.)

The board shall have the power to require all persons holding licenses under it to file with the board such reports at such reasonable or regular time as the board may require, showing such person's production, sale or distribution of milk, and any information deemed by the board necessary which pertains to the production, sale or distribution of such milk, either under oath or otherwise, as the board may direct, and failure or refusal to file such reports when directed to do so by the board or its duly designated agent shall constitute grounds for the revocation of such person's license and shall constitute a violation for which such person may be fined as hereinafter provided, one or both, at the discretion of the board.

The board shall adopt a uniform system of reporting to be used by the processor and distributor to account for the usage of all milk received by the processor and distributor.

Every processor and distributor shall keep the following records:

1. A record of all milk, cream, or dairy products received, detailed as to location, names, and addresses of suppliers, prices paid, and deductions or charges made, and the use to which such milk or cream was put.
2. A record of the quantity of each kind of milk or dairy product manufactured and the quantity and price of milk or dairy products sold.
3. A full and complete record of all milk, cream, or dairy products sold, classified as to kind and grade, showing where sold, and the amount received therefor.
4. A record of the wastage or loss of milk or dairy products.
5. A record of the items of handling expense.
6. A record of all refrigeration facilities sold for storage purposes to any person, showing types and sizes of the

same, the location of said facilities, and the original, or duplicate original, of all agreements covering sales charges therefor.

7. A record of all conditional sales of equipment or other property, the location of said property, and the original, or duplicate original, of all conditional sales contracts pertaining thereto.
8. A record of all moneys loaned to wholesale customers, the terms and conditions of said loans, and the original evidence of the indebtedness based on said loans.
9. Such other records as the board may deem necessary for the proper enforcement of the Act.

§ 16. Cooperation with Other Governmental Agencies.) In order to secure a uniform system of milk stabilization, the board is hereby vested with power, and it shall be its duty to confer and cooperate with the legally constituted authorities of other states and of the United States, including the Secretary of Agriculture of the United States, and, for the foregoing purposes, the board shall have the power to conduct joint hearings, issue joint or concurrent orders and exercise all its powers under this Act.

§ 17. Violations Made Misdemeanors—Penalties.) Any person, required by this Act to be licensed, who shall produce, sell, distribute, or handle milk in any way, except as a consumer, without first having obtained a license, as required of him by this Act, shall be deemed 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. A violation of any provision of this Act or of any lawful rule or order of the board, shall be deemed a misdemeanor punishable 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.

§ 18. Constructions, Exceptions, and Limitations.) The license required by this Act shall be in addition to any other license required by any statute of North Dakota or any municipality of the state of North Dakota. This Act shall apply to every part of the state of North Dakota.

Nothing contained in this Act shall be construed to prohibit the issuing of trading stamps in numbers customary in normal trade, but no trading stamp bonuses shall be given for milk products as defined herein.

If any portion of this Act is held invalid or unconstitutional, such holding shall not affect the validity of the Act as a whole,

or any part thereof which can be given effect without the part so held to be unconstitutional or invalid.

No provision of this Act shall apply or be construed to apply to foreign or interstate commerce except insofar as the same may be effective in compliance with the United States Constitution, and with the laws of the United States. It is the intention of the legislature, however, that the instant, whenever that may be, that the handling, within the state by a dealer, of milk produced outside of the state, becomes the subject of regulation by the state in the exercise of its police powers, the provisions of this Act, affecting intrastate milk, shall immediately apply and the powers conferred by this Act shall attach thereto.

§ 19. Local Advisory Boards.) Whenever a public hearing is scheduled by the milk stabilization board in any marketing area for the purpose of establishing prices, the board shall, at least ten days prior to the date set for such hearing, appoint a local advisory board, the function of which shall be to assist and advise the milk stabilization board in matters pertaining to the production and marketing of milk in said marketing area. The local advisory board shall consist of two producers and two processors, who are respectively actively engaged in milk production and distribution in the area. Such local advisory board shall meet with the milk stabilization board at the call of the milk stabilization board before, during, or after such public hearing to establish prices; and a verbatim transcript of all matters and things discussed by the milk stabilization board with such local advisory board at all such conferences or meetings shall be prepared and shall be considered a part of the record of the hearing. The members of such local advisory board shall serve without pay, but shall receive mileage and expenses in an amount equal to that received by state officers for attending such meetings or conferences. In no event shall there be more than three meetings or conferences between the milk stabilization board and such local advisory board; and in all events such local advisory board shall cease to exist when the milk stabilization board promulgates its decision or order establishing prices following the public hearing heretofore mentioned.

§ 20. Referendum on Continuance of Program—Petitions—Contents.) Any time after three years of the effective date of this Act, on petition of twenty-five percent of the total grade A milk producers in North Dakota covered by the provisions of this Act, said petitioners residing in at least twenty-seven different counties in this state, the commissioner of agriculture shall conduct a referendum by secret ballot by mail, in accordance with rules established by the commissioner of agriculture,

and shall report the results of the referendum to the next legislative assembly that meets thereafter.

§ 21. Planning and Organizing Funds.) The milk stabilization board is hereby granted authority to negotiate a loan of ten thousand dollars, or so much thereof as may be necessary, from the bank of North Dakota. Said loan shall be for the purpose of meeting the initial expenses of planning and organizing the system. The loan shall be repaid as an administrative expense of the plan.

§ 22. Appropriation.) There is hereby appropriated out of any moneys in the milk stabilization fund in the state treasury the sum of \$160,000.00, or so much thereof as may be necessary, for expenditure during the biennium beginning July 1, 1967, and ending June 30, 1969, for the purpose of carrying out the provisions of this Act.

Approved March 10, 1967.

ALCOHOLIC BEVERAGES

CHAPTER 80

H. B. No. 683
(Kelsch)

REGULATION OF ALCOHOLIC BEVERAGES

AN ACT

To provide for the regulation and taxation of the sale, use and distribution of alcoholic beverages and licensing of wholesalers and retailers of such beverages and to repeal title 5 of the North Dakota Century Code, and providing a penalty.

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

§ 1. **Definitions.)** In this title,

1. "Alcoholic beverages" shall mean any liquid suitable for drinking by human beings, which contains one-half of one percent or more of alcohol by volume.
2. "Beer" shall mean any malt beverage containing more than one-half of one percent of alcohol by volume.
3. "Liquor" shall mean any alcoholic beverage except beer.
4. "Wine" shall mean the alcoholic beverage obtained by fermentation of agricultural products containing natural or added sugar or such beverage fortified with brandy and containing not more than twenty-four percent alcohol by volume.
5. "Sparkling wine" shall mean wine made effervescent with carbon dioxide.
6. "Alcohol" shall mean neutral spirits distilled at or above 190° proof, whether or not such product is subsequently reduced, for non-industrial use.
7. "Distilled spirits" shall mean any alcoholic beverage that is not beer, wine, sparkling wine or alcohol.

§ 2. **Exceptions.)** Nothing contained in this Act shall be construed to apply to the following articles, when they are unfit for beverage purposes:

1. Denatured alcohol produced and used pursuant to Acts of Congress, and the regulations thereunder;

2. Patent, proprietary, medical, pharmaceutical, antiseptic, and toilet preparations;
3. Flavoring extracts, syrups, and food products;
4. Scientific, chemical, and industrial products;

nor to the manufacture or sale of said articles containing alcohol. This Act shall not apply to wines delivered to priests, rabbis, and ministers for sacramental use.

§ 3. Penalty.) Any person distributing alcoholic beverages in this state without compliance with the provisions of this title is guilty of a misdemeanor.

§ 4. Manufacture of Alcoholic Beverages Prohibited—Exception.) Any person manufacturing alcoholic beverages within this state is guilty of a misdemeanor and property used for same is subject to disposition by the court except any person may establish a brewery for the manufacture of malt beverages within this state if he has secured a license from the state treasurer. Such license shall be issued on a calendar-year-basis with a fee of five hundred dollars. Said license shall allow sale to only licensed wholesalers.

§ 5. Public Intoxication—Penalty.) Any person intoxicated in any public place shall be guilty of a misdemeanor.

§ 6. Recovery of Damages for Illegal Sale of Liquor.) Every wife, child, parent, guardian, employer, or other person who shall be injured in person, property or means of support by any intoxicated person, or in consequence of intoxication, shall have a right of action against any person who shall have caused such intoxication by disposing, selling, bartering, or giving away alcoholic beverages contrary to statute for all damages sustained.

§ 7. Township Beer or Liquor Licenses.) No retail beer or liquor license shall be issued in any organized township without the written consent of board of township supervisors. This section shall not apply to renewals of such licenses.

§ 8. Persons Less Than Twenty-One Years Prohibited—Exception.) Any person under twenty-one years of age purchasing, attempting to purchase or being in possession of alcoholic beverages or furnishing money to any person for such purchase or entering any licensed premise where such beverages are being sold or displayed, except a restaurant when accompanied by a parent or legal guardian, is guilty of a misdemeanor.

§ 9. Delivery to Certain Persons Unlawful.) Any person delivering alcoholic beverages to a person under twenty-one

years of age, a habitual drunkard, an incompetent, or an intoxicated person is guilty of a misdemeanor.

§ 10. Bottle Clubs Prohibited—Penalty.) Any person operating an establishment whereby persons are allowed to bring their own alcoholic beverages on the premises where the proprietor sells soft drinks, mix, ice, or charges for bringing such beverages on the premises is guilty of a misdemeanor.

§ 11. Unfair Competition — Penalty.) No manufacturer shall engage in any wholesale alcoholic beverage business, nor shall any manufacturer or wholesaler have any financial interest in any retail alcoholic beverage establishment nor furnish any such retailer with anything of value except wholesalers may:

1. Extend normal commercial credits to retailers for industry products sold to them. The state treasurer may determine by regulation the definition of "normal commercial credits" for each segment of the industry;
2. Furnish retailers with beer containers and also equipment for dispensing of tap beer provided the expense does not exceed twenty-five dollars per tap per calendar year;
3. Furnish outside signs to retailers if the sign cost does not exceed one hundred dollars exclusive of costs of erection and repair;
4. Furnish miscellaneous materials to retailers not to exceed twenty-five dollars per year.

Any wholesaler or manufacturer violating the provisions of this section and any retailer receiving benefits thereby, is guilty of a misdemeanor.

§ 12. Duty to Enforce.) The inspectors appointed by the attorney general shall have all the powers of peace officers anywhere in the state, and all peace officers in the state shall diligently enforce the laws set forth in this title. Any officer failing to do so shall be guilty of a misdemeanor. Said officers shall frequently visit all licensed premises to see that all such laws are strictly observed.

§ 13. State's Attorneys Inquiry.) The state's attorney may subpoena persons and take sworn testimony concerning any alleged violation of the alcoholic beverage laws and he may apply to the district court for an order compelling persons subpoenaed to appear and testify. Such witnesses shall receive the same fees and mileage as in a civil case in district court.

§ 14. State and Local Retail License Required—Exception.)

Any person engaging in the sale of alcoholic beverages at retail without first securing an appropriate license from the attorney general and the governing body of any town, or board of county commissioners if said business is located outside the corporate limits of a town, is guilty of a misdemeanor. This section shall not apply to public carriers engaged in interstate commerce.

§ 15. Qualifications for License.) No retail license shall be issued to any person unless the applicant shall file a sworn application, accompanied by the required fee, showing the following qualifications:

1. Applicant, other than corporate, must be a citizen of the United States and a resident of the state of North Dakota and be a person of good moral character.
2. If applicant is a corporation the manager of the licensed premises and the officers, directors and stockholders must be citizens of the United States and persons of good moral character. Corporate applicants must first be properly registered with the secretary of state.
3. Applicant or manager must not have been convicted of a felony.
4. Building in which business is to be conducted must meet local and state requirements regarding the sanitation and safety.
5. Applicant for a state license must have first secured a local license.
6. The attorney general, or local governing body, may require applicant to set forth such other information in application as necessary to enable them to determine if a license should be granted.

§ 16. Local License Fees.) The fee for an annual local on and off sale liquor license shall be set by ordinance or resolution at not less than two hundred dollars nor more than two thousand dollars, except outside the corporate limits of a town the fee shall not exceed one thousand dollars. The fee for an annual on and off sale local beer license shall be set by ordinance or resolution at not less than fifty dollars nor more than five hundred dollars. The fee for an annual local exclusive off sale beer or off sale liquor license shall not be more than the fee charged for an on and off sale license. The local governing body may by ordinance or resolution provide for issuance of licenses for any period not to exceed one year and may allow for proration and refunds of license fees.

§ 17. **State License Fee.**) The fee for an annual state on and off sale beer or liquor license shall be fifty dollars each, except in towns over five hundred population at the last federal decennial census the fee shall be one hundred dollars for each license. An off sale only beer or liquor license shall be fifty dollars each. The fee for an annual state license will be charged on a calendar year basis. License fees will be prorated from the first day of the month in which license is issued up to the last day of the month in which such license expires, except that no license fee will be less than twenty-five dollars.

§ 18. **Disposal Prohibited on Certain Days—Penalty.**) Any licensee who disposes or permits the consumption of alcoholic beverages on the licensed premises between the hour of one o'clock a.m. and eight o'clock a.m., on Sunday, Memorial Day, Good Friday, after six o'clock p.m. on Christmas Eve, Christmas Day, or between the hours of one o'clock a.m. and eight o'clock p.m. on the day of any election held by a local political subdivision of this state is guilty of a misdemeanor.

§ 19. **Persons Under Twenty-One Years Prohibited—Penalty—Exception.**) Any licensee who disposes alcoholic beverages to a person under twenty-one years of age or who permits such a person to remain on the licensed premises while alcoholic beverages are being sold or displayed is guilty of a misdemeanor. Any person under twenty-one years may remain in a restaurant where alcoholic beverages are being sold if accompanied by a parent or legal guardian.

§ 20. **Sale of Other Items Restricted — Penalty.**) Any licensee selling any item on the licensed premises other than alcoholic beverages, soft drinks, tobacco products, drink mixing supplies, peanuts, pretzels, potato chips and related sundries is guilty of a misdemeanor, except a licensee may sell alcoholic beverages in a restaurant separated from the room in which alcoholic beverages are opened or mixed if gross sales of food are at least equal to sales of alcoholic beverages in the dining area.

§ 21. **Disorderly Conduct Prohibited—Penalty.**) Any licensee permitting disorderly conduct on the premises is guilty of a misdemeanor.

§ 22. **Local Regulations.**) The local governing body by ordinance or resolution may regulate or restrict the operation of licensees including among other things determining number of licenses to be granted, establishing health and safety standards for licensed premises, setting of hours and prohibition of dancing or various forms of entertainment on the premises.

§ 23. Hearing on Alleged Violations.) Any person having information that a licensed retailer of alcoholic beverages has violated any provisions of this title may file with the attorney general, city attorney or state's attorney an affidavit specifically setting forth such violation. Upon receipt of such affidavit, the city attorney or state's attorney shall set the matter for hearing not later than the next regular meeting of the governing body or forward such affidavit to the attorney general. Upon receipt of any such affidavit the attorney general shall set the matter for hearing in the local county courthouse not less than ten days after copies of the affidavit and notice of hearing have been mailed to the licensee by registered mail. If the hearing is held by the local governing body, a copy of this affidavit and notice of hearing shall be mailed the licensee by registered mail not less than five days before such hearing. A record of such hearings will be made by stenographic notes or the use of an electronic recording device.

§ 24. Suspension or Revocation of License — Appeal.) If after such hearing the attorney general or local governing body finds the violation charged in the affidavit has been proved by the evidence, an order shall be served on the licensee revoking or suspending his license for a period of time. Such action may be appealed to the district court by following the appeal procedure set forth in chapter 28-32 of the North Dakota Century Code, except that the order revoking or suspending the license shall be inoperative while the appeal is pending.

§ 25. Witnesses—Subpoena—Fees.) The attorney general or a member of the local governing body shall have the power to administer oaths and subpoena and examine witnesses. Any witness called by the prosecution, except a peace officer while on duty, shall receive the same fees and mileage as a witness in a civil case in district court.

§ 26. State Wholesale License Required — Qualifications.) Before any person shall engage in the sale at wholesale of beer or liquor in this state he shall first procure a license from only the state treasurer. Such license shall only allow sale to licensed retailers, licensed wholesalers and regular retail outlets on federal military reservations. No such license shall be issued unless the applicant shall file a sworn application, accompanied by the required fee, showing the following qualifications:

1. Applicant, other than corporate, must be a citizen of the United States and a resident of the state of North Dakota and a person of good moral character. If applicant is a corporation the manager of the licensed premises and the officers, directors and stockholders must be citizens

of the United States and persons of good moral character. Corporate applicants must first be properly registered with the secretary of state.

2. The state treasurer may require applicant to set forth such other information as is necessary to enable him to determine if a license should be granted.
3. No person shall be eligible for such a license unless he has a warehouse and office in this state in which is kept a complete set of records relative to his alcoholic beverage transactions in North Dakota.

§ 27. Fees.) The fee for an annual wholesale liquor license shall be one thousand dollars. The fee for an annual wholesale beer license shall be two hundred dollars.

§ 28. Bond Required.) Each wholesale beer or liquor dealer shall file with the state treasurer a bond in such amount and form as the state treasurer may require, to be conditioned upon compliance with all the provisions of this chapter, not to exceed fifty thousand dollars for any licensee.

§ 29. Collection of Taxes.) The taxes imposed by this chapter shall be paid by wholesalers to the state treasurer on or before the fifteenth day of each month. Liquor wholesalers shall make such payments based on the total gallonage sold the preceding calendar month. Beer wholesalers shall make such payments based on the total gallonage purchased from brewers the preceding calendar month. Sales of beer and liquor to instrumentalities of the federal government on military reservations shall be tax exempt. Upon satisfactory proof a tax credit shall be allowed beer wholesalers for beer purchased, but which cannot be sold in North Dakota. A tax credit shall be allowed wholesalers on bad accounts which are charged off for income tax purposes, but a pro rata tax shall again be paid on any accounts subsequently collected. If any wholesaler makes an overpayment of taxes due, the state treasurer shall issue a credit applicable to future obligations or certify such amount to the department of accounts and purchases for a refund. Any remittance within one dollar of the correct amount due may be accepted by the state treasurer as the correct amount due.

§ 30. Treasurer to Enact Regulations—Appeal.) The state treasurer, pursuant to the Administrative Agencies Practice Act, shall adopt rules and regulations governing retailers, wholesalers and manufacturers to insure efficient collection of beer and liquor taxes. Such regulations will have the force of law thirty days after the date of mailing to the persons affected by such regulations. All decisions of the state treasurer shall be subject to court review.

§ 31. Examination by Treasurer—Penalty for Improper Returns.) The state treasurer may at any reasonable time make an examination of the books and premises of any wholesaler to determine if such wholesaler has fully complied with all statutes and regulations pertaining to his wholesale business. If any wholesaler liable for any taxes imposed by this chapter shall fail to pay such tax on the date payment is due, there shall be added to the tax five percent per month of the total amount of the tax unpaid from the due date of payment until paid. Any wholesaler failing to furnish reports when required shall be assessed a penalty of one hundred dollars for each day such reports are delinquent. The state treasurer may forgive all or part of any penalty for good cause shown. If any wholesaler shall file a fraudulent return, there shall be added to the tax an amount equal to the tax evaded or attempted to be evaded and such wholesaler shall also be guilty of a felony. All such taxes and civil penalties may be collected by assessment or distraint, and no court of this state shall enjoin the collection of any such tax or civil penalty. No wholesaler shall purchase alcoholic beverages from a manufacturer after notice from the state treasurer that such manufacturer has failed to file required reports with his office. Any wholesaler may have his license suspended or revoked for violation of any of the provisions of this title after a hearing conducted similar to that prescribed by this law.

§ 32. Imposition of Tax—Rate.) A tax is hereby imposed upon all sales of alcoholic beverages by wholesalers according to the following schedule:

Beer in bulk containers—per wine gallon.....	\$.08
Beer in bottles and cans—per wine gallon.....	.16
Wine containing less than 17% alcohol by volume—per wine gallon.....	.50
Wine containing 17%—24% alcohol by volume—per wine gallon.....	.60
Sparkling wine—per wine gallon.....	1.00
Distilled spirits—per wine gallon.....	2.50
Alcohol—per wine gallon.....	4.05

***§ 33. Repeal.)** Title 5 of the North Dakota Century Code is hereby repealed and shall be replaced by the provisions of this Act.

Approved March 14, 1967.

***Note:** Section 1 of chapter 81, 1967 S.L., also repealed section 5-03-26 of the North Dakota Century Code. Section 2 of chapter 158, 1967 S.L., amended section 5-01-13 of the North Dakota Century Code. Sections 12 through 20 of chapter 323, 1967 S.L., amended sections 5-01-13, 5-01-17, 5-02-07, 5-02-08, 5-03-03, 5-03-04, 5-03-20, 5-05-02, and 5-05-03 of the North Dakota Century Code. Since the repeal of these sections by chapter 80, 1967 S.L., governs any amendments, the amendments have in effect been nullified.

CHAPTER 81

S. B. No. 330
(Nething, Decker)

REPEAL OF NONALCOHOLIC DRINK EXCISE TAX

AN ACT

To repeal section 5-03-26 of the 1963 Supplement to the North Dakota Century Code, providing for an excise tax on nonalcoholic commodities suitable for use in mixed drinks.

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

***§ 1. Repeal.)** Section 5-03-26 of the 1963 Supplement to the North Dakota Century Code is hereby repealed.

Approved February 27, 1967.

***Note:** This section was also repealed by chapter 80, 1967 S.L.

BANKS AND BANKING

CHAPTER 82

S. B. No. 231
(Hernett, Kautzmann)

EXAMINATION FEES

AN ACT

To amend and reenact section 6-01-17 of the North Dakota Century Code, relating to fees for examination of banks.

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

§ 1. **Amendment.**) Section 6-01-17 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-01-17. Fees for Examination of Banks.) Every state banking association, banking institution, and trust company placed under the jurisdiction and control of the state examiner and his deputy examiners by the provisions of this title, prior to receiving its certificate of authority to commence business, if a new corporation or association, and in all cases within ten days after each examination, shall pay into the state treasury the following fee: two hundredths of one percent of gross amount of the assets of said corporation or association on the day of the examination, exclusive of expenses, interest, and taxes paid, and inclusive of any valuation allowance or allowances deducted by a state banking association from any asset account. Such fee shall not be less than two hundred dollars and not more than three thousand dollars. The state treasurer shall report such payments of fees to the state banking board, and if any such corporation or institution shall be delinquent more than twenty days in making such payment, the board may make an order suspending the functions of such delinquent corporation or institution until payment of the amount due, plus a penalty of five dollars a day additional for the delay.

Approved February 27, 1967.

CHAPTER 83

S. B. No. 244
(Redlin)

STATE EXAMINER'S FEES FOR COUNTY AGENCIES

AN ACT

To amend and reenact section 6-01-21.1 of the North Dakota Century Code, relating to county agencies, examinations and fees.

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

§ 1. **Amendment.)** Section 6-01-21.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-01-21.1. County Agencies — Examinations — Fees.) The state examiner by his duly appointed deputy examiners or other authorized person or persons shall examine at least each year, if possible, and more often if he, in his discretion, deems it advisable, the official financial records, accounts, and proceedings of boards of county commissioners, county auditors, county treasurers, clerks of district court, county judges, registers of deeds, county superintendents of schools, sheriffs, public administrators, governing boards of irrigation districts and flood irrigation districts, clerks or secretaries of said boards and treasurers of said districts. Fees for such examinations shall be charged by the state examiner for the examinations in this section provided at the rate of forty dollars per day for the time used by himself or other person designated by him in supervising, filing and corresponding in connection with such report and for the time used by each deputy examiner, or other person or persons in making and otherwise preparing and typing the reports of examinations herein provided for. Fee for an extra day shall be paid for each person who may be required to travel to participate in the examinations in this section provided. The fees herein provided shall be paid by the counties and districts examined to the state treasurer, and by him credited to the general fund of the state.

Approved February 27, 1967.

CHAPTER 84

S. B. No. 245
(Redlin)STATE EXAMINER'S FEES FOR MUNICIPAL AGENCIES,
PARK BOARDS, AND SCHOOL DISTRICTS

AN ACT

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

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

§ 1. **Amendment.)** Section 6-01-21.2 of the 1965 Supplement to 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 twelve hundred according to the latest federal decennial census, except school districts which shall be examined annually if the population is 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 twelve hundred or less, except school districts which shall be examined at least once every three years if the population is 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 forty dollars per day for the time used by himself or other persons designated by him in supervising, filing and corresponding in connection with such reports of 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, in political subdivisions having populations in excess of twelve hundred according to the latest federal decennial census, and thirty dollars per day for political subdivisions having populations under twelve hundred. 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 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 February 27, 1967.

CHAPTER 85

S. B. No. 322

(Kautzmann, Stroup)

USE OF THE NAME "BANK"

AN ACT

To amend and reenact section 6-02-01 of the 1965 Supplement to the North Dakota Century Code, relating to banking powers and use of the name "bank".

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

§ 1. **Amendment.)** Section 6-02-01 of the 1965 Supplement to 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 chapter 6-04 or authorized to take on banking powers under this section, 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 chapter 6-04. 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 desiring to take on banking powers shall make application to the state banking board for a hearing upon said application pursuant to the provisions of section 6-02-06. If the determination of the board is in favor of the applicant the board shall make its order authorizing the applicant to engage in the business of banking. Such order shall be recorded in the office of the register of deeds of the county in which said trust company is established, and the same shall be transmitted to the secretary of state who shall record and carefully preserve the same in his office, and shall certify the facts to the state banking board. Thereafter said trust company shall be subject to the jurisdiction of the state banking board as to its banking operations the same as state banking associations. The provisions of sections 6-02-02, 6-02-03, 6-02-04, 6-02-05, 6-02-07, 6-02-08 and 6-02-09 shall not be applicable to trust companies granted authority to engage in the business of banking by the state banking board.

Approved February 24, 1967.

CHAPTER 86

H. B. No. 769
(Fossum, Freeman)

BANK 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.

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

§ 1. **Amendment.)** Section 6-03-14 of the 1965 Supplement to 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, or in any other county provided the location of the community to be served is within a thirty-five mile radius of such home office, 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.

Approved March 14, 1967.

CHAPTER 87

H. B. No. 811
(Sanstead, Hickle)

ASSETS AND TRANSACTIONS OF BANKS

AN ACT

To amend and reenact section 6-03-38 of the North Dakota Century Code, and to create and enact subsection 10 of section 10-04-06 of the North Dakota Century Code, relating to the use of the assets of a bank and the exemption of transactions from the corporation law of the state of North Dakota, and declaring an emergency.

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

§ 1. **Amendment.)** Section 6-03-38 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-03-38. Assets Not To Be Used in Other Business—Violation a Misdemeanor.) No bank, except as otherwise specifically authorized in this title, shall employ its money or other assets as principal, directly or indirectly, in trade or commerce, nor shall it employ or invest any of its assets or funds in the stock of any corporation, bank, partnership, firm, or association, provided, however, that a state bank may to the extent that banks subject to the laws of the federal government are permitted to do so, purchase shares of stock in small business investment companies organized under Public Law No. 85-699, Eighty-fifth Congress, known as the Small Business Investment Act of 1958, and any amendments thereto, or chapter 10-30 of the North Dakota Century Code, but in no event shall any state bank hold shares in small business investment companies in an amount aggregating more than two percent of the bank's capital and surplus, nor in speculative margins of stock, bonds, grain, provisions, produce, or other commodities, except that it shall be lawful for a bank to make advances for grain or other products in store or in transit to market. Any officer, director, or employee of any bank who shall invest or use its funds contrary to the provisions of this title shall be guilty of a misdemeanor.

§ 2. **Amendment.)** Subsection 10 of section 10-04-06 of the 1965 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

10. The sale of capital stock of a corporation may be exempted by the securities commissioner if the corporation is organized under chapter 10-30 of the laws of

North Dakota or approved by the small business administration as qualifying for loans under section 502 of the Small Business Investment Act of 1958, as amended.

§ 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 28, 1967.

CHAPTER 88

H. B. No. 678
(Unruh, Bullis)

COMMINGLING OF TRUST FUNDS

AN ACT

To amend and reenact section 6-05-15.1 of the 1965 Supplement to the North Dakota Century Code, regarding 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 1965 Supplement to 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 one hundred 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 February 25, 1967.

CHAPTER 89

S. B. No. 203
(Rait, Geving)

CREDIT UNION SUPERVISION

AN ACT

To amend and reenact section 6-06-08 of the North Dakota Century Code, relating to credit union supervision, reports, examination and fees.

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

§ 1. **Amendment.**) Section 6-06-08 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-06-08. State Credit Union Board to Supervise Credit Unions — Reports — Examinations — Fees.) Credit unions and the permanent loan funds thereof, if any, shall be under the supervision of the state credit union board. The credit unions shall report to the state examiner at least once annually, upon call of the state examiner, on blanks supplied by the examiner for the purpose. Additional reports may be required by the board or examiner. Credit unions shall be examined at least once each year by the examiner or with his approval and the approval of the state credit union board, credit unions may be

examined annually by a certified public accountant or the North Dakota credit union league. If the examination is not made by the state examiner, the expense of such examination shall be borne by the credit union examined and such examination shall be in such form and contain such information as the state examiner may require. Two copies of such examination shall be filed with the state examiner and shall be approved by him. If it is determined through an examination or otherwise that the credit union is violating the provisions of this chapter, or is insolvent, the state credit union board may serve notice on the credit union of its intention to revoke the charter. If such violations continue for a period of fifteen days after such notice, the board may revoke the charter and take possession of the business and property of such credit union, and shall maintain possession then until such time as it shall permit the reinstatement of the charter and the continuation of business by the credit union, or until its affairs finally are liquidated. The board may take similar action if any required report remains in arrears for more than fifteen days. The credit union shall pay to the state examiner for examination a fee equal to fifty dollars per examiner day, except that the minimum fee for the examination of a credit union shall be fifty dollars.

Approved February 21, 1967.

CHAPTER 90

S. B. No. 253
(Rait)

CREDIT UNION LIQUIDATION

AN ACT

To provide for voluntary liquidation of credit unions, and repealing sections 6-06-30, 6-06-31, and 6-06-32 of the North Dakota Century Code.

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

§ 1. Approval of Liquidation—Notice to State Examiner.)
A credit union may go into voluntary liquidation on approval of a majority of its members in writing or by a vote in favor of such liquidation by a majority of the members of the credit union at a regular meeting of the members or at a special meeting called for that purpose. When authorization for liquidation is to be obtained at a meeting of members, notice in writing shall be given to each member at least seven days

before such meeting and the minutes of the meeting shall show the number of members present and the number that voted for and against liquidation. If approval by a majority of all members is not obtained at the meeting of members, authorization for voluntary liquidation may be obtained by having a majority of members sign a statement in substantially the following form:

We the undersigned members of theCredit Union, Charter No., hereby request the dissolution of our credit union.

Within ten days after the decision of the board of directors to submit the question of liquidation to the members, the president shall notify the state examiner thereof in writing, setting forth in detail the reasons for the proposed action. Within ten days after the action of the members on the question of liquidation, the president shall notify the state examiner in writing as to whether or not a majority of the members approved the proposed liquidation.

§ 2. Transactions During Liquidation.) Immediately on decision by the board of directors of a credit union to seek approval of the members for liquidation, payments on shares, withdrawal of shares (including any transfer of shares to loans and interest), making investments of any kind, and granting of loans shall be suspended pending action by members on the proposal to liquidate, and on approval by a majority of the members of such proposal, payments on shares, withdrawal of shares (including any transfer of shares to loans and interest), making investments of any kind, and the making of loans shall be permanently discontinued. Necessary expenses of operation shall, however, continue to be paid on authorization by the board of directors or liquidating agent during the period of the liquidation.

§ 3. Notice of Liquidation to Members—Creditors.) Immediately on decision by the board of directors, a notice of such decision shall be handed to each member or mailed to his last known address together with a request that the member furnish his passbook or confirm in writing the shares held by him in the credit union and the loans owed by him to the credit union.

On approval of a majority of the members of a credit union of a proposal to liquidate, the board of directors of the credit union shall immediately have prepared and mailed to all creditors a notice of liquidation containing instructions to them to present their claims to the credit union within ninety days for payment.

§ 4. Report at Commencement of Liquidation — Reports During Period of Liquidation.) At the commencement of voluntary liquidation of a credit union, the treasurer or agent conducting the liquidation shall file with the state examiner a financial and statistical report, and a schedule showing the name, book number, share balance, and loan balance of each member.

Credit unions in the process of voluntary liquidation shall file with the state examiner a financial and statistical report as of December thirty-one within ten days after such date. Additional reports, as determined by the state examiner to be necessary, shall be furnished promptly on written request.

§ 5. Examinations in Voluntary Liquidation.) When deemed advisable by the state examiner, an examination of the books and records of a credit union may be made prior to, during, or following completion of voluntary liquidation. A fee for each examination shall be assessed at the rate currently in effect for examinations of operating credit unions.

§ 6. Responsibility for Conduct of Voluntary Liquidation.) The board of directors of a credit union in voluntary liquidation shall be responsible for conserving the assets, for expediting the liquidation, and for equitably distributing the assets to members. The board of directors shall determine that all persons handling or having access to funds of the credit union are adequately covered by surety bond. The board of directors shall appoint a custodian for the credit union's records that are to be retained for five years after the charter is canceled. The board of directors may appoint a liquidating agent and delegate part or all of these responsibilities to him and may authorize reasonable compensation for his services; any such liquidating agent shall be bonded for faithful performance of his duties. The supervisory committee shall be responsible for making periodic audits of the credit union's records, at least quarterly, during the period of liquidation.

§ 7. Partial Distribution.) With the written approval of the state examiner, a partial distribution of the credit union's assets may be made to its members from cash funds available on authorization by its board of directors, or by a duly authorized liquidating agent whose appointment specifically includes such authority.

§ 8. Completion of Liquidation.) When all assets of the credit union have been converted to cash or found to be worthless and all loans and debts owing to it have been collected or found to be uncollectible and all obligations of the credit union have been paid, with the exception of amounts due its members, the books shall be closed and the pro rata distribution to

members computed. The amount of gain or loss shall be entered in each member's share account and should be entered in his passbook or statement of account.

§ 9. Distribution of Assets.) Promptly after the pro rata distribution to members has been computed, checks shall be drawn for the amounts to be distributed to each member who has surrendered his passbook or has given a written confirmation of his balance. The checks shall be mailed to such members at their last known address or handed to them in person. The passbooks or written confirmations submitted by members to verify balances shall be retained with the credit union records. The state examiner shall be notified promptly of the date final distribution of assets to the members is started. Unclaimed share accounts which have been dormant for the period which makes them subject to the escheat or abandoned property laws of the state of North Dakota, shall be paid to the state as required by such laws.

§ 10. Final Report.) Within one hundred and twenty days after the final distribution to members is started, the credit union shall furnish to the state examiner's office the following:

1. A schedule on an official form of unpaid claims, if any, due members who failed to surrender their passbooks or confirm their balances in writing during liquidation whose accounts are not payable to the state under applicable escheat or abandoned property laws, and of unpaid claims, if any, due members or creditors who failed to cash final distribution checks within the said one hundred and twenty days; this schedule shall be accompanied by a certified check or money order payable to the state treasurer in the exact amount of the total of these unpaid claims. The state treasurer will deposit said funds in a special account where they will be held for the account of the individuals named on said schedule. Each such individual or any authorized person on his behalf, may submit to the state treasurer a written claim for the amount of such funds held for him.

2. A schedule on an official form showing the name, book number, share balance at the commencement of liquidation, pro rata share of gain or loss, and the amount of each unclaimed share account paid to the state under applicable escheat or abandoned property laws. The check number and date of payment to the state should be included in the schedule.

3. A schedule on an official form showing the name, book number, share balance at the commencement of liquidation, pro rata share of gain or loss, and the amount distributed to each member.

4. A summary report on liquidation in duplicate on an official form.

5. The certificate of dissolution and liquidation on an official form signed under oath by the board of directors or agent who conducted the liquidation and made the final distribution of assets to the members.

6. The name and address of the custodian of the credit union's records.

7. The charter of the credit union.

§ 11. Retention of Records—Cancellation of Charter.) All records of the liquidated credit union necessary to establish that creditors were paid and that members' shareholdings were equitably distributed shall be retained by a custodian appointed by the board of directors of said credit union for a period of five years following the date of cancellation of the charter.

On proof that distribution of assets has been made to members and within one year after receipt of the certificate of dissolution and liquidation, the state examiner shall cancel the charter of the credit union concerned.

§ 12. Further Instructions and Information.) Further detailed instructions, information, and official forms pertaining to voluntary liquidations may be obtained from the state examiner's office, Bismarck, North Dakota, 58501.

§ 13. Repeal.) Sections 6-06-30, 6-06-31 and 6-06-32 of the North Dakota Century Code are hereby repealed.

Approved February 21, 1967.

CHAPTER 91

H. B. No. 863
(Hilleboe)

BANK OF NORTH DAKOTA FARM LOANS

AN ACT

To amend and reenact section 6-09-15 of the North Dakota Century Code, relating to bank loans, and to repeal sections 6-09-18, 6-09-19, 6-09-20, 6-09-21, 6-09-22, 6-09-23, 6-09-24, 6-09-30, 6-09-31 and 6-09-32, of the North Dakota Century Code, relating to farm loans made by the bank of North Dakota.

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

§ 1. **Amendment.)** Section 6-09-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-09-15. Bank May Transfer Funds to Other State Departments—Loans—Real Estate Loans Limited.) The bank of North Dakota may transfer funds to other departments, institutions, utilities, industries, enterprises, or business projects of the state, and such funds shall be returned with interest to the bank. It may make loans to counties, cities, or other political subdivisions of the state, or to state or national banks, and may participate with state or national banks in loans being made by them, on such terms and under such rules and regulations as the industrial commission may determine. It shall not otherwise make loans or give its credit to any individual, association, or private corporation, except that it may make loans to actual farmers who are residents of this state, if such loans are secured by duly recorded first mortgages on real estate in the state of North Dakota in amounts not to exceed one-half the value of the security and except United States insured and guaranteed loans as specifically authorized by law. The bank, however, shall not loan more than thirty percent of its capital, nor in addition thereto, more than twenty percent of its deposits on real estate security.

§ 2. **Repeal.)** Sections 6-09-18, 6-09-19, 6-09-20, 6-09-21, 6-09-22, 6-09-23, 6-09-24, 6-09-30, 6-09-31, and 6-09-32 of the North Dakota Century Code are hereby repealed.

Approved March 4, 1967.

CHAPTER 92

H. B. No. 803

(Link, Streibel, Giffey, Reimers)

TRANSFER OF BANK OF NORTH DAKOTA PROFITS

AN ACT

To transfer certain moneys from the accumulated and undivided profits of the bank of North Dakota 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 six million dollars from the accumulated undivided profits of the bank of North Dakota on order of the industrial commission.

Approved March 6, 1967.

BUILDING AND LOAN ASSOCIATIONS

CHAPTER 93

S. B. No. 285
(Wenstrom)

INVESTMENT IN CENTRALIZED DATA PROCESSING SERVICE

AN ACT

To authorize savings and loan associations to invest in or own jointly a corporation to provide a centralized data processing service.

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

§ 1. Savings and Loan Association Investment in Service Corporation.) Subject to the approval of the state banking board, any savings and loan association may purchase capital stock, bonds, debentures or other such obligations of any corporation operated for the purpose of providing, from a central processing point, the cooperative use of data processing equipment. Provided, however, that no savings and loan association may invest more than one percent of its savings share capital in the capital stock, bonds, debentures or other such obligations of a service corporation such as is authorized in this section.

Approved February 25, 1967.

CHAPTER 94

S. B. No. 286
(Wenstrom)

POWERS OF STATE-CHARTERED SAVINGS AND LOAN
ASSOCIATIONS

AN ACT

To authorize state-chartered savings and loan associations to exercise powers granted to federally-chartered savings and loan associations.

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

§ 1. Powers Granted Federally-Chartered Savings and Loan Associations Extended to State-Chartered Associations.) Any provision of law, to the contrary notwithstanding, any state-chartered savings and loan association having insurance of accounts with the federal savings and loan insurance corporation may, in addition to any loan or investment now permitted, make any loan or investment which such association could make were it incorporated and operating as a federal savings and loan association with its domicile in this state. To the extent that the additional loans or investments, hereby authorized, are an enlargement of powers already granted by law, then such additional loans and investments shall be made on the same terms and conditions and subject to the same limitations as are now permitted or as may hereafter be permitted in case of federal chartered savings and loan associations under present existing, or later adopted regulations of the federal home loan bank board and the rules and regulations for the federal savings and loan system, or otherwise.

Approved February 25, 1967.

CHAPTER 95

S. B. No. 284
(Wenstrom)

EXAMINATION FEES FOR SAVINGS AND LOAN
ASSOCIATIONS

AN ACT

To amend and reenact section 7-05-01 of the North Dakota Century Code, relating to savings and loan associations examination and fees therefor.

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

§ 1. Amendment.) Section 7-05-01 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

7-05-01. Examination and Fees Therefor.) The state examiner, at least once each year or oftener if he deems it necessary or expedient, shall examine into the affairs of all domestic associations doing business in this state. Whenever persons holding ten percent or more of the subscribed shares of any association file a written application with the state examiner requesting him to make an examination of any such association, he shall make such examination forthwith. Upon the completion of any examination of any association made by the state examiner or under his direction, the association so examined shall pay to the state examiner a fee to be determined as follows: for the first one hundred thousand dollars of assets, a fee of fifty dollars; for each additional one hundred thousand dollars of assets or major portion thereof, an additional fee of ten dollars. The minimum fee for any such examination, however, shall be one hundred dollars. The maximum fee shall not be more than three thousand dollars, except that when a special examination of an association is requested by holders of ten percent or more of the subscribed shares the maximum fee shall not apply. The state examiner shall report such payment to the state banking board, and if any such association shall be delinquent more than twenty days in making such payment, the state banking board may make an order suspending the functions of such association until payment of the amount due, together with a penalty of five dollars additional for each day of delay in payment. All fees collected by the state examiner shall be paid by him to the state treasurer for credit to the general fund. In lieu of the examinations herein required, the state examiner may accept

any examination made by a federal home loan bank, the federal home loan bank board, or, if an insured association, by the federal savings and loan insurance corporation. The state examiner may in his discretion conduct a joint examination with said described federal agencies, in which case the fee paid to the state treasurer as provided herein shall be one-half of the amount specified herein.

Approved February 21, 1967.

CARRIAGE

CHAPTER 96

S. B. No. 128
(Chesrown, Longmire)

HARASSING TELEPHONE CALLS

AN ACT

To create and enact section 8-10-07.1 of the North Dakota Century Code, relating to harassing telephone calls.

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

§ 1.) Section 8-10-07.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

8-10-07.1. Telephone Calls with Intent to Annoy—Misdemeanor.) Any offense committed by use of a telephone as herein set out may be deemed to have been committed at either the place at which the telephone call or calls were made or at the place where the telephone calls were received, and any person shall be guilty of a misdemeanor who:

1. With intent to annoy, harass, terrify, intimidate, or offend, telephones another or addresses to such other person any threat to inflict injury to any person or property of any person shall be guilty of a misdemeanor.
2. Makes a telephone call with intent to annoy another and without disclosing his true identity to the person answering the telephone, whether or not conversation ensues from making the telephone call, is guilty of a misdemeanor.

Approved February 27, 1967.

CORPORATIONS

CHAPTER 97

H. B. No. 782

(Wells, Larson(16), Dawson, Powers, Rivinius, Johnson(39), Jones)

CORPORATIONS ALLOWED TO CARRY ON FARMING OPERATIONS

AN ACT

To create and enact section 10-06-07 of the North Dakota Century Code, authorizing small corporations to engage in farming and ranching operations, providing limitations thereon, and to repeal sections 10-06-01, 10-06-02, 10-06-03, and 10-06-05 of the North Dakota Century Code, relating to the prohibition of corporate farming.

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

§ 1.) Section 10-06-07 of the North Dakota Century Code is hereby created and enacted to read as follows:

10-06-07. Corporations Allowed to Carry on Farming and Ranching Operations—Limitations.) Any corporation may own real estate and carry on farming or ranching operations, if such corporation meets the following standards:

1. The shareholders shall not exceed ten in number.
2. The corporation shall not have as a shareholder a person, other than an estate, who is not a natural person.
3. The corporation shall not have more than one class of shares.
4. The corporation's income from rent, royalties, dividends, interest, and annuities does not exceed twenty percent of the corporation's gross receipts.

Notwithstanding any provisions of this Act, a corporation prohibited from owning shares may hold such shares as acquired by bequest or devise or as are acquired in the regular course of business in partial or full satisfaction of any mortgage, lien, or other encumbrance held or owned by such corporation on such shares, provided such shares are sold or otherwise transferred within ten years to a person qualified as a shareholder under this Act. Any corporation not meeting the specifications and standards set out in this Act may not engage in the business of farming or ranching or own lands

suitable for farming or ranching, which are not reasonably necessary for the conduct of its business.

§ 2. **Repeal.**) Sections 10-06-01, 10-06-02, 10-06-03, and 10-06-05 of the North Dakota Century Code are hereby repealed.

Filed March 13, 1967.

Note: Chapter 97 was vetoed by the governor on February 25, 1967. This veto was subsequently overridden by the House of Representatives on February 25, 1967, and by the Senate on February 28, 1967.

CHAPTER 98

S. B. No. 144
(Holand, Chesrown)

STATE ADMINISTRATION OF CORPORATIONS AND COOPERATIVES

AN ACT

To create and enact sections 10-15-52.1, 10-15-52.2, 10-15-52.3, 10-15-52.4, 10-15-52.5, and 41-09-46.1 of the North Dakota Century Code, relating to mergers, amendments to articles of association, certificates of authority, and withdrawal of foreign cooperatives; and exempting the secretary of state and his employees from liability for filing errors made in carrying out the provisions of the Uniform Commercial Code; and to amend and reenact sections 6-06-04, 10-15-04, 10-15-07, 10-15-09, 10-15-10, 10-15-12, subsections 3, 4, and 5 of section 10-15-36, sections 10-15-38, 10-15-40, subsection 1 of section 10-15-42, subsection 3 of section 10-15-43, section 10-15-44, subsection 4 of section 10-15-45, subsection 4 of section 10-15-47, subsection 1 of section 10-15-48, sections 10-15-50, 10-15-51, 10-15-53, 10-15-54, 10-23-01, subsection 1 of section 10-23-05, subsection 1 of section 10-28-02, subsection 5 of section 41-09-42, sections 41-09-44, 41-09-45, subsection 2 of section 41-09-46, sections 43-03-16, 49-09-14, 54-09-04, 61-05-19, and 61-16-06 of the North Dakota Century Code, relating to recording and filing certain forms in the office of secretary of state, charges for making such filings, and failure of cooperatives to file annual reports as legally required.

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

§ 1. **Amendment.**) Section 6-06-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-06-04. Amendment of Certificate or Bylaws — Approval by State Credit Union Board.) The certificate of organization or bylaws of a credit union may be amended at a regular or special meeting of the members thereof. The proposed amendments must be fully set forth in the notice of the meeting at

which the proposed amendments are to be submitted for action. Any amendment to the certificate of organization must be approved by a majority vote of the entire membership of the credit union, and any amendment to the bylaws must be approved by three-fourths of the members present at the meeting. Proposed amendments to the certificate of organization or the bylaws shall, before submission to members for adoption, be approved by the state credit union board, and shall become operative immediately upon approval of the membership of the credit union. The resolution containing the full text of any amendment of the certificate of organization, verified by the president and the treasurer of the credit union and approved by the state credit union board, shall be recorded in the office of the register of deeds of the county in which the principal place of business of the credit union is located and the register of deeds shall after recording of the amendment return it with his certificate of recording attached, and it shall be filed with the secretary of state for permanent record. The fee for filing the amendment with the secretary of state shall be five dollars. The applicants shall, within thirty days thereafter, provide the state examiner with a true and correct copy of the amendment to the certificate of organization or the amendments to the bylaws.

§ 2. Amendment.) Section 10-15-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

10-15-04. Incorporators.) Five or more adults, one of whom must be a resident, may form a cooperative by signing, acknowledging, and filing articles of association.

§ 3. Amendment.) Section 10-15-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

10-15-07. Articles, Filing—Cooperative Existence.) Duplicate originals of the articles of association, duly signed and acknowledged, shall be delivered to the secretary of state for filing. The legal corporate existence of a cooperative begins when the duplicate original articles are so delivered. The secretary of state shall stamp on both originals the date of filing and return one to the cooperative with his certificate of such filing.

§ 4. Amendment.) Section 10-15-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

10-15-09. Organization Meetings—Temporary Board.) After articles have been filed, an organization meeting of the

temporary board shall be held at the call of a majority of the incorporators or of a majority of the temporary directors for the adoption of bylaws, election of temporary officers, and transaction of other business.

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

10-15-10. Members' First Meeting.) The first meeting of the members shall be called by the temporary president or a majority of the temporary directors. Such meeting shall be held as soon as reasonably possible after the organization meeting of the temporary board, but not later than six months after filing the articles. Failure to hold such meeting within the time specified does not affect the validity of organization.

§ 6. Amendment.) Section 10-15-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

10-15-12. Principal Office—Registered Agent.) A cooperative shall maintain in this state either its principal office or a registered agent.

The board may establish or change the location of the principal office or name and address of the registered agent by causing a statement in writing to be filed as an amendment to the articles as provided in section 10-15-53. Such statement shall set forth the name of the cooperative, and the location of its principal office or the name and address of the registered agent as established or changed. For the purposes of this chapter, the post office address of an existing cooperative becoming subject to this chapter, as set forth in the articles for its business office, shall be considered its registered office and the secretary of the cooperative shall be considered its registered agent unless the articles are amended otherwise.

A registered agent may resign by mailing a written notice to both the secretary of state and the cooperative. The resignation becomes effective when the cooperative names a new registered agent or sixty days after the receipt of notice by the secretary of state, whichever is sooner.

§ 7. Amendment.) Subsections 3, 4, and 5 of section 10-15-36 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

3. The annual report shall be delivered to the secretary of state between January first and March thirty-first of each year following incorporation. A fee of five dollars shall be paid to the secretary of state for filing the report. If the report does

not conform to requirements, it shall be returned to the cooperative for necessary corrections. The penalties for failure to file such report shall not apply if it is corrected and returned within thirty days after receipt thereof. The secretary of state may extend the filing date for the annual report of any cooperative whenever in his discretion he considers such an extension of time advisable and proper.

4. Any report filed after March thirty-first may be filed only upon payment to the secretary of state of the following fees:

- a. If filed prior to May first, ten dollars.
- b. If filed thereafter but not later than the following December first, fifteen dollars.

5. If the report is not filed before the following December second, the cooperative is not in good standing and shall be considered to be inactive. Until restored to good standing, the secretary of state may not accept for filing any document respecting such cooperative except those incident to its dissolution. The secretary of state, on or before the first day of July of each year following the year a cooperative is found to be inactive, shall certify to the attorney general the names of all cooperatives which have failed to file their reports in accordance with this section, together with the facts pertinent thereto, and shall also mail a copy of such certificate to the cooperative involved. Upon the receipt of such certification, the attorney general may in his discretion file an action in the name of the state against such cooperative for its dissolution.

§ 8. Amendment.) Section 10-15-38 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

10-15-38. Filing Amendments — Limitation of Action.)

1. Amendments to articles shall be signed by the president or a vice president and the secretary or an assistant secretary, such signatures shall be acknowledged, the amendments shall be sealed with the cooperative's seal, and shall set forth:

- a. The name of the cooperative;
- b. The amendments and date of adoption;
- c. The number of members; and
- d. The number of members voting for and against such amendment.

2. One copy of such amendment shall be retained in the records of the association, and one copy shall be filed in the

office of the secretary of state, who shall issue a certificate of amendment thereon.

3. No amendment may affect any existing cause of action or proceedings to which the cooperative is a party, or existing rights of persons other than members or stockholders.

4. No action may be maintained to invalidate any amendment because of the manner of its adoption unless commenced within two years after the date of filing.

§ 9. Amendment.) Section 10-15-40 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

10-15-40. Amendments by Bankruptcy Court.) Certified copies of any order of a court of the United States, in proceedings under the bankruptcy laws, shall be filed as an amendment if the order affects an amendment to the articles. The principal officers of a cooperative shall cause each order to be promptly filed after it becomes final.

§ 10. Amendment.) Subsection 1 of section 10-15-42 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Articles of merger or consolidation shall set forth the approved plan and such other information as is required by section 10-15-38. They shall be signed by two principal officers of each association merging or consolidating, sealed with the seal of each such association, and filed as an amendment to the articles. Unless otherwise specified in the plan, the merger or consolidation is effective when the articles are so filed.

§ 11. Amendment.) Subsection 3 of section 10-15-43 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. Articles of division shall set forth the approved plan and such other information as is required by section 10-15-38 and shall be filed as an amendment to the articles. Each part of the plan which contains the articles of a new cooperative shall be separately filed as articles of association for such new cooperative.

§ 12. Amendment.) Section 10-15-44 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

10-15-44. Conversion of Corporation.) A corporation may convert itself into a cooperative by adopting an amendment to its articles by which it elects to become subject to this chapter, together with the changes in its articles required by

this chapter and other desirable changes permitted by this chapter. Such amendment shall be adopted and filed in the manner provided by the law then applicable to the corporation.

§ 13. Amendment.) Subsection 4 of section 10-15-45 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. The articles of dissolution shall be filed as provided in section 10-15-53, and thereupon the existence of the cooperative ceases.

§ 14. Amendment.) Subsection 4 of section 10-15-47 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. When the court approves the final distribution of a cooperative's assets, it shall enter a decree in the nature of articles of dissolution which shall be filed in the secretary of state's office.

§ 15. Amendment.) Subsection 1 of section 10-15-48 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Upon filing the articles or decree of dissolution, title to any property omitted from the final distribution vests in the surviving directors or committee members who signed the articles, as trustees. They have all the powers of the cooperative with respect to such property and shall distribute the property or its proceeds to the persons beneficially entitled thereto.

§ 16. Amendment.) Section 10-15-50 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

10-15-50. Survival of Remedy After Dissolution.) Except as provided in section 10-15-47, the dissolution of a cooperative does not impair any remedy available to or against such cooperative, its directors, stockholders, or members for any claim existing or any liability incurred prior to such dissolution if a proceeding thereon is commenced within two years after the date of filing the articles or decree of dissolution.

§ 17. Amendment.) Section 10-15-51 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

10-15-51. Admission of Foreign Cooperatives.) A foreign cooperative is authorized to do business in this state upon issuance of a certificate of authority to that effect by the secretary of state. In order to procure such certificate, it shall

make application therefor to the secretary of state, and file a certified copy of the articles of association and all amendments on file in the state or country of incorporation. The application shall set forth:

1. The name of the cooperative and the state or country under the laws of which it is incorporated;
2. The date of incorporation and the period of duration of the corporation;
3. The address of the principal office of the cooperative in the state or country under the laws of which it is incorporated;
4. The address of the proposed registered office of the cooperative in this state, and the name of its proposed registered agent in this state at such address;
5. The purpose or purposes of the cooperative which it proposes to pursue in the transaction of business in this state;
6. The names and respective addresses of the directors and officers of the cooperative;
7. A statement of its aggregate number of members, and of the number of members by classes, if any;
8. A statement of the aggregate amount of authorized and issued capital stock itemized by classes, par value of stock, stock without par value, and series, if any, within a class; and
9. Such additional information as may be necessary or appropriate in order to enable the secretary of state to determine whether such cooperative is entitled to a certificate of authority to transact business in this state and to determine and assess fees payable.

Such application shall be made on forms prescribed and furnished by the secretary of state and shall be executed in duplicate by the cooperative by its president or a vice president and by its secretary or an assistant secretary, and verified by one of the officers signing such application.

§ 18.) Section 10-15-52.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

10-15-52.1. Merger of Foreign Cooperative Authorized to Transact Business in This State.) Whenever a foreign cooperative authorized to transact business in this state shall be a party to a statutory merger permitted by the laws of the state or country under the laws of which it is associated, and such

cooperative shall be the surviving cooperative, it shall, within thirty days after such merger becomes effective, file with the secretary of state a copy of the articles of merger duly authenticated by the proper officer of the state or country under the laws of which such statutory merger was effected; and it shall not be necessary for such cooperative to procure either a new or amended certificate of authority to transact business in this state unless the name of such cooperative be changed thereby or unless the cooperative desires to pursue in this state other or additional purposes than those which it is then authorized to transact in this state.

§ 19.) Section 10-15-52.2 of the North Dakota Century Code is hereby created and enacted to read as follows:

10-15-52.2. Amendment to Articles of Association of Foreign Cooperatives.) Whenever the articles of association of a foreign cooperative authorized to transact business in this state are amended, such foreign cooperative shall, within thirty days after such amendment becomes effective, file in the office of the secretary of state a copy of such amendment duly authenticated by the proper officer of the state or country under the laws of which it is associated; but the filing thereof shall not of itself enlarge or alter the purpose or purposes which such cooperative is authorized to pursue in the transaction of business in this state, nor authorize such cooperative to transact business in this state under any other name than the name set forth in its certificate of authority.

§ 20.) Section 10-15-52.3 of the North Dakota Century Code is hereby created and enacted to read as follows:

10-15-52.3. Amended Certificate of Authority.) A foreign cooperative authorized to transact business in this state shall procure an amended certificate of authority in the event it changes its cooperative name, or desires to pursue in this state other or additional purposes than those set forth in its prior application for a certificate of authority, by making application therefor to the secretary of state.

The requirements in respect to the form and contents of such application, the manner of its execution, the filing of duplicate originals thereof with the secretary of state, the issuance of an amended certificate of authority and the effect thereof, shall be the same as in the case of an original application for a certificate of authority.

§ 21.) Section 10-15-52.4 of the North Dakota Century Code is hereby created and enacted to read as follows:

10-15-52.4. Withdrawal of Foreign Cooperative.) A foreign cooperative authorized to transact business in this state may

withdraw from this state upon procuring from the secretary of state a certificate of withdrawal. In order to procure such certificate of withdrawal, such foreign cooperative shall deliver to the secretary to state an application for withdrawal, which shall set forth:

1. The name of the cooperative and the state or country under the laws of which it is associated;
2. That the cooperative is not transacting business in this state;
3. That the cooperative surrenders its authority to transact business in this state;
4. That the cooperative revokes the authority of its registered agent in this state to accept service of process and consents that service of process in any action, suit or proceeding based upon any cause of action arising in this state during the time the cooperative was authorized to transact business in this state may thereafter be made on such cooperative by service thereof on the secretary of state;
5. A post office address to which the secretary of state may mail a copy of any process against the cooperative that may be served on him; and
6. Such additional information as may be necessary or appropriate in order to enable the secretary of state to determine and assess any unpaid fees payable by such foreign cooperative.

The application for withdrawal shall be made on forms prescribed and furnished by the secretary of state and shall be executed by the cooperative by its president or vice president and by its secretary or an assistant secretary, and verified by one of the officers signing the application, or, if the cooperative is in the hands of a receiver or trustee, shall be executed on behalf of the cooperative by such receiver or trustee and verified by him.

§ 22.) Section 10-15-52.5 of the North Dakota Century Code is hereby created and enacted to read as follows:

10-15-52.5. Filing of Application for Withdrawal for Foreign Cooperatives.) Duplicate originals of an application by a foreign cooperative for withdrawal shall be delivered to the secretary of state. If the secretary of state finds that such application conforms to the provisions of section 10-15-52.4, he shall, when all fees have been paid:

1. Endorse on each of such duplicate originals the word "filed", and the month, day, and year of the filing thereof;

2. File one of such duplicate originals in his office; and
3. Issue a certificate of withdrawal to which he shall affix the other duplicate original.

The certificate of withdrawal, together with the duplicate original of the application for withdrawal affixed thereto by the secretary of state, shall be returned to the cooperative or its representative. Upon the issuance of such certificate of withdrawal, the authority of the cooperative to transact business in this state shall cease.

§ 23. Amendment.) Section 10-15-53 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

10-15-53. Filing Documents—Penalty for False Document.)

1. When any document is to be filed, duplicate originals shall be delivered to the secretary of state. He shall stamp on both the date of filing and return one to the cooperative with his certificate of filing.

2. Whoever causes any document to be filed, knowing such to be false in any material respect, may be fined not more than one thousand dollars or imprisoned not more than three years, or both.

§ 24. Amendment.) Section 10-15-54 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

10-15-54. Fees.) No document may be filed nor any certificate issued until all fees therefor have been paid. Any fee or penalty due under this chapter may be recovered in a suit brought by the attorney general in the name of the state. The secretary of state shall charge and collect from any association for:

1. Filing articles of association and issuing a certificate of association, sixteen dollars;
2. Filing articles of amendment and issuing a certificate of amendment, twelve dollars;
3. Filing restated articles of association, twelve dollars;
4. Filing articles of merger or consolidation and issuing a certificate of merger or consolidation, fifteen dollars;
5. Filing articles or decree of dissolution, five dollars;
6. Receiving service of any process, notice, or demand, five dollars;

7. Filing an application of a foreign cooperative for a certificate of authority to do business in this state and issuing a certificate therefor, eighteen dollars;
8. Filing a copy of an amendment to the articles of association of a foreign cooperative holding a certificate of authority to transact business in this state, eight dollars;
9. Filing an application for an amended certificate of authority for a foreign cooperative holding a certificate of authority to transact business in this state, sixteen dollars;
10. Filing a copy of articles of merger of a foreign cooperative holding a certificate of authority to transact business in this state, fifteen dollars;
11. Filing an application for withdrawal of a foreign cooperative and issuing a certificate of withdrawal, ten dollars;
12. Filing any other document or statement, or issuing any other certificate, five dollars.

§ 25. **Amendment.**) Section 10-23-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

10-23-01. Annual Report of Domestic and Foreign Corporations.) Each domestic corporation, and each foreign corporation authorized to transact business in this state, shall file, within the time prescribed by section 10-23-02, an annual report setting forth:

1. The name of the corporation and the state or country under the laws of which it is incorporated;
2. The address of the registered office of the corporation in this state, and the name of its registered agent in this state at such address, and, in the case of a foreign corporation, the address of its principal office in the state or country under the laws of which it is incorporated;
3. A brief statement of the character of the business in which the corporation is actually engaged in this state;
4. The names and respective addresses of the directors and officers of the corporation;
5. A statement of the aggregate number of shares which the corporation has authority to issue, itemized by classes, par value of shares, shares without par value, and series, if any, within a class;

6. A statement of the aggregate number of issued shares, itemized by classes, par value of shares, shares without par value, and series, if any, within a class;
7. A statement, expressed in dollars, of the amount of stated capital of the corporation, as defined in section 10-19-02;
8. A statement, expressed in dollars, of the value of all the property owned by the corporation, wherever located, and the value of the property of the corporation located within this state, and a statement, expressed in dollars, of the gross amount of business transacted by the corporation for the twelve months ending on the thirty-first day of December preceding the date herein provided for the filing of the annual report and the gross amount thereof transacted by the corporation at or from places of business in this state. If, on the thirty-first day of December preceding the time herein provided for the filing of such report, the corporation had not been in existence for a period of twelve months, or in the case of a foreign corporation had not been authorized to transact business in this state for a period of twelve months, the statement with respect to business transacted shall be furnished for the period between the date of incorporation or the date of its authorization to transact business in this state, as the case may be, and such thirty-first day of December; and
9. Such additional information as may be necessary or appropriate in order to enable the secretary of state to determine and assess the proper amount of fees payable by such corporation.

Such annual report shall be made on forms prescribed and furnished by the secretary of state, and the information therein contained shall be given as of the date of the execution of the report, except as to the information required by subsections 7, 8, and 9 which shall be given as of the close of business on the thirty-first day of December next preceding the date herein provided for the filing of such report, or in the alternative data of the fiscal year ending next preceding this report may be used. It shall be executed by the corporation by its president, a vice president, secretary, an assistant secretary, or treasurer, and verified by the officer executing the report, or, if the corporation is in the hands of a receiver or trustee, it shall be executed on behalf of the corporation and verified by such receiver or trustee.

§ 26. Amendment.) Subsection 1 of section 10-23-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. For furnishing a certified copy of any document, instrument, or paper relating to a corporation, thirty-five cents per page and two dollars for the certificate and affixing the seal thereto; and

§ 27. **Amendment.)** Subsection 1 of section 10-28-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. For furnishing a certified copy of any document, instrument, or paper relating to a corporation, thirty-five cents per page and two dollars for the certificate and affixing the seal thereto.

§ 28.) Section 41-09-46.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

41-09-46.1. Secretary of State Exempt from Liability.) The secretary of state and his employees or agents, are hereby exempted from all personal liability as a result of any errors or omissions in the performance of any duty required by the Uniform Commercial Code, title 41 of the North Dakota Century Code, except in cases of willful misconduct or negligence.

§ 29. **Amendment.)** Subsection 5 of section 41-09-42 of the North Dakota Century Code, designated as section 9-403 of the Uniform Commercial Code, is hereby amended and reenacted to read as follows:

5. The uniform fee for filing, indexing and furnishing filing data for an original or a continuation statement shall be two dollars. When a non-standard form is presented for filing, an additional charge of one dollar shall be made.

§ 30. **Amendment.)** Subsections 1 and 2 of section 41-09-44 of the North Dakota Century Code, designated as section 9-405 of the Uniform Commercial Code, is hereby amended and reenacted to read as follows:

41-09-44. (9-405) Assignment of Security Interest—Duties of Filing Officer—Fees.) 1. A financing statement may disclose an assignment of a security interest in the collateral described in the statement by indication in the statement of the name and address of the assignee or by an assignment itself or a copy thereof on the face or back of the statement. Either the original secured party or the assignee may sign this statement as the secured party. On presentation to the filing officer of such a financing statement the filing officer shall mark the same as provided in subsection 4 of section 41-09-42. The uniform fee for filing, indexing and furnishing

filing data for a financing statement so indicating an assignment shall be two dollars. When a non-standard form is presented for filing, an additional charge of one dollar shall be made.

2. A secured party may assign of record all or a part of his rights under a financing statement by the filing of a separate written statement of assignment signed by the secured party of record and setting forth the name of the secured party of record and the debtor, the file number and the date of filing of the financing statement and the name and address of the assignee and containing a description of the collateral assigned. A copy of the assignment is sufficient as a separate statement if it complies with the preceding sentence. On presentation to the filing officer of such a separate statement, the filing officer shall mark such separate statement with the date and hour of the filing. He shall note the assignment on the index of the financing statement. The uniform fee for filing, indexing and furnishing filing data about such a separate statement of assignment shall be two dollars. When a non-standard form is presented for filing, an additional charge of one dollar shall be made.

§ 31. Amendment.) Section 41-09-45 of the North Dakota Century Code, designated as section 9-406 of the Uniform Commercial Code, is hereby amended and reenacted to read as follows:

41-09-45. (9-406) Release of Collateral — Duties of Filing Officer — Fees.) A secured party of record may by his signed statement release all or a part of any collateral described in a filed financing statement. The statement of release is sufficient if it contains a description of the collateral being released, the name and address of the debtor, the name and address of the secured party, and the file number of the financing statement. Upon presentation of such a statement to the filing officer he shall mark the statement with the hour and date of filing and shall note the same upon the margin of the index of the filing of the financing statement. There shall be a one dollar fee for filing and noting such a statement of release. When a non-standard form is presented for filing, an additional charge of one dollar shall be made.

§ 32. Amendment.) Subsection 2 of section 41-09-46 of the North Dakota Century Code, designated as section 9-407 of the Uniform Commercial Code, is hereby amended and reenacted to read as follows:

2. Upon request of any person, the filing officer shall issue his certificate showing whether there is on file on the date and hour stated therein, any presently effective financing state-

ment naming a particular debtor and any statement of assignment thereof and if there is, giving the date and hour of filing of each such statement and the names and addresses of each secured party therein. The uniform fee for such a certificate and the first five financing statements or statements of assignment reported therein, shall be one dollar and fifty cents, plus twenty-five cents for each additional statement reported therein. Upon request the filing officer shall furnish a copy of any filed financing statement or statement of assignment for a uniform fee of one dollar and fifty cents plus seventy-five cents for the second and each succeeding page.

§ 33. **Amendment.)** Section 43-03-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-03-16. Certificates of Registration Issued by Board—Result of Examinations Recorded by Secretary of Board—Certificate Filed with Secretary of State.) The result of every examination for registration as an architect or the evidence of qualifications, shall be recorded by the secretary of the board, and the board shall issue a certificate of registration to every person who has passed the examination or otherwise is entitled to receive the certificate. Every registered licensed architect, within thirty days, shall file a copy of his certificate of registration with the secretary of state, who shall provide a special book for the purpose of keeping an index of such filings.

§ 34. **Amendment.)** Section 49-09-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

49-09-14. Utility Property Transfers Filed with Secretary of State.) Every general conveyance, lease, deed of trust, mortgage, assignment, or satisfaction thereof, made by any public utility or corporation of any franchise, right-of-way, real estate, fixtures, poles, wires, pipes, conduits, and general equipment used in carrying on the business of a public utility in pursuance of law shall be executed and acknowledged in the manner in which a conveyance of real estate by a corporation is required to be executed and acknowledged to entitle a copy of the same to be filed. A copy shall be filed in the office of the secretary of state, who shall issue his certificate specifying the day and hour of its reception and where filed, and such certificate shall be evidence of the fact of filing. Every such filing of any copy of the instrument, from the time of reception, shall have the same effect as to any property in this state described therein as the record of any similar instrument in the office of a register of deeds may have by law as to property in the county in which such register of deeds holds office, and

shall be notice of the rights and interests of the grantee, lessee, or mortgagee to the same extent as if it were recorded in each of the several counties in which any property therein described may be situated.

§ 35. Amendment.) Section 54-09-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-09-04. Fees.) The secretary of state, for services performed in his office, unless otherwise provided by law, shall charge and collect the following fees:

1. For a copy of any law, resolution, record, or other document or paper on file in his office, thirty-five cents per page;
2. For affixing his signature, certificate, or seal, or combination thereof to any document, two dollars;
3. For filing a certificate of appointment of attorney, five dollars;
4. For every extradition warrant issued by the governor of any other state or territory, five dollars;
5. For any other document signed by the governor, except a commission, and attested by the secretary of state, five dollars;
6. For searching records and archives of the state, two dollars;
7. For filing any paper not otherwise provided for, one dollar;
8. For filing documents and issuing certificates for foreign and domestic profit and nonprofit corporations, fees as prescribed in the general law governing corporations;
9. For filing documents and issuing certificates for foreign and domestic cooperative associations, fees as prescribed in chapter 10-15;
10. For filing utility property transfers, five dollars, and issuing a certificate of filing, two dollars.

No member of the legislative assembly, and no state or county officer shall be charged for any search relative to matters appertaining to duties of his office, nor shall he be charged any fee for a certified copy of any law or resolution passed by the legislative assembly relative to his official duties. All fees when collected must be paid by the secretary of state into the state treasury at the end of each month and placed to the credit of the state.

§ 36. Amendment.) Section 61-05-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-05-19. State Engineer to File Order with Secretary of State — Secretary of State to Make Certificate — Evidence.) The state engineer shall file in the office of the secretary of state a copy, duly certified by him, of his order declaring any territory to be duly organized as an irrigation district, and the secretary of state shall make and issue to the state engineer a certificate under the seal of the state, of the due organization of such district and shall file a copy of such certificate and the said order of the state engineer. Such certificate of the secretary of state, or a copy thereof, authenticated by him, shall be prima facie evidence of the organization and existence of such irrigation district.

§ 37. Amendment.) Section 61-16-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-16-06. Order Establishing Water Management District.) A certified copy of the order establishing a water management district shall be filed with the county auditor of each county within which any portion of the district lies, and a like copy of the order shall be filed in the office of the secretary of state. The secretary of state shall make and issue to the state water conservation commission his certificate, bearing the seal of the state, of the due organization of such district, and shall file a copy of such certificate and the order of the commission establishing the district. Such certificate of the secretary of state, or a copy thereof authenticated by him, shall be prima facie evidence of the organization of such water conservation district. Such district shall be, and is hereby declared to be a governmental agency, body politic and corporate with the authority to exercise the powers specified in this chapter, or which may be reasonably implied in order to exercise such powers. The order of the commission shall specify the name or number by which a water management district shall be known.

Approved March 15, 1967.

COUNTIES

CHAPTER 99

H. B. No. 743

(Bauer, Erickson(4), Metzger)

COUNTY COMMISSIONER SALARIES AND EXPENSES

AN ACT

To amend and reenact subsection 3 of section 11-10-10 of the 1965 Supplement to the North Dakota Century Code, relating to the salaries and expenses of county commissioners.

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

§ 1. Amendment.) Subsection 3 of section 11-10-10 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. Each county commissioner may, by resolution of the board, be allowed the sum of fifteen dollars per day while performing his duties in attending meetings of the board of county commissioners of which he is a member or when engaged in other official duties, whether outside or within the county, and an allowance for actual meals and lodging expenses in an amount not to exceed twelve dollars, but shall not be entitled to any allowance wherein he resides other than the attendance at meetings of the board of county commissioners of which he is a member as herein provided. Claims for lodging as herein provided, but not for meals shall be covered by a sub-voucher or receipt as provided by section 21-05-01 of the Code as amended. If a meeting of a board of county commissioners is of more than one day's duration, a county commissioner may charge for and collect mileage or other transportation expense for travel actually made in going to his home and returning therefrom for each overnight period that the meeting may remain in session, but shall not be entitled to charge and collect for an evening meal on the date of going to his home or a morning meal on the date of his return. For the purpose of collecting per diem, living expenses, and transportation expenses incident to the attendance of any county commissioner at any statewide meeting of the North Dakota county commissioners association, such attendance at said meeting shall be considered the performance of an

official duty within the meaning of this section. Each county commissioner while performing official duties shall be allowed his mileage and transportation expenses not in excess of the amounts provided in section 11-10-15, and when such transportation is furnished by rail or other common carrier including regularly scheduled airlines, such claims shall comply in all respects with section 21-05-01 of the code as amended. No county commissioner residing within the corporate limits of the county seat may charge for and collect for mileage or other sums in lieu thereof, or for meals and lodging, for attending any meeting of the board of county commissioners of which he is a member or for attending any statewide meeting of the North Dakota county commissioners association held in the county seat where he resides. Total compensation and expenses, including per diem, board and lodging, and transportation expense, received by any member of a board of county commissioners shall be charged to and paid from the general fund of the county only and shall not exceed for each fiscal year the following amounts: In counties having a population of eight thousand or less, three thousand two hundred dollars; in counties having a population of over eight thousand and less than fifteen thousand, three thousand seven hundred and fifty dollars; and in counties having a population of over fifteen thousand, four thousand five hundred dollars, and for the purpose of fixing the maximums herein provided, population figures shall be those established by the most recent federal census.

Approved March 14, 1967.

CHAPTER 100

H. B. No. 797

(Connolly, McDonald(21), Dahlen, Belter, Lillehaugen)

LOCATION OF COUNTY OFFICES

AN ACT

To amend and reenact section 11-10-20 of the North Dakota Century Code, relating to location of county offices.

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

§ 1. Amendment.) Section 11-10-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-10-20. Board of County Commissioners to Provide Offices, Courtroom, Jail—Where Public Records Kept.) The board of county commissioners shall provide a courtroom and jail, and shall provide offices in the courthouse of the county for the sheriff, county treasurer, register of deeds, auditor, clerk of the district court, state's attorney, county judge, county superintendent of schools, and any other officer who has charge of public records. If there is no courthouse in the county or if the courthouse erected has not sufficient capacity, such offices shall be furnished by the county in a suitable building at the county seat for all elected officials, and at any place within the county for appointive or administrative officials, at the lowest rent to be obtained. Provided further that this section shall not apply where county officials may serve more than one county as may be otherwise authorized by law.

Approved March 14, 1967.

CHAPTER 101

H. B. No. 761
(Hensrud, Kelsch, Boyum)

SHERIFF UNIFORM ALLOWANCE

AN ACT

To create and enact a section of the North Dakota Century Code, relating to a uniform allowance for sheriffs and full-time deputy sheriffs, excluding office deputies.

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

§ 1.) Uniform Allowance for Sheriffs and Full-Time Deputy Sheriffs, Excluding Office Deputies.) An allowance for the purchase and maintenance of uniforms for sheriffs and full-time deputy sheriffs, excluding office deputies, shall be allowed by the board of county commissioners in each county in an amount not to exceed two hundred dollars per man the first year and one hundred dollars per man each succeeding year for the sheriffs and full-time deputy sheriffs, excluding office deputies.

§ 2. Standard Uniform Established.) The attorney general with the advice of interested parties and associations shall prescribe a standard uniform for sheriffs and full-time deputy sheriffs.

§ 3. Uniform Surrendered When Term of Office Ends.) The uniforms and parts thereof purchased by the board of county commissioners shall be returned to the sheriff's office upon termination of employment of each sheriff and full-time deputy.

Approved March 14, 1967.

CHAPTER 102

H. B. No. 898
(Giffey)

STATISTICAL INFORMATION COMPILED BY
COUNTY OFFICIALS

AN ACT

To amend and reenact section 11-13-02.1 of the North Dakota Century Code, relating to preparation of statistical material by county officials.

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

§ 1. **Amendment.**) Section 11-13-02.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-13-02.1. Duties of County Official in Rendering Services to Private Individuals, Firms, or Corporations—Fees To Be Charged—Disposition of Fees—Records To Be Kept.) It shall not be the duty of any county official to compile statistical information for, or furnish copies of records to, private individuals, firms, or corporations, other than that required of him by section 11-13-15. At his own discretion he may compile statistical information for, or furnish copies of records to, private individuals, firms, or corporations upon payment of a suitable charge which shall be commensurate with costs to the county of providing such services. Such fee shall be a minimum of twenty-five cents and shall not exceed the sum of one dollar per hour for time consumed in compiling such statistical information or preparing such copies of records, to be remitted each month to the county treasurer for credit to the county general fund. The county official shall keep a complete record of fees collected under this section.

Approved March 6, 1967.

CHAPTER 103

H. B. No. 792
(Erickson(4), Wilkie)

SALE OF PROPERTY BY COUNTY COMMISSIONERS

AN ACT

To amend and reenact section 11-27-01 of the North Dakota Century Code, relating to the sale of property by boards of county commissioners.

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

§ 1. **Amendment.)** Section 11-27-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-27-01. Board of County Commissioners Authorized to Sell Property—Private and Public Sale.) The board of county commissioners of any county may dispose of any property, either real or personal, which the county has acquired through purchase, forfeiture, or operation of law other than through tax sale proceedings, in accordance with the provisions of this chapter. When the property to be disposed of is estimated by the board to be of a value of less than one thousand dollars, it may be sold at private sale upon the proper resolution of the board. In all other cases, such property may be sold only at public sale.

Approved March 14, 1967.

CHAPTER 104

H. B. No. 625

(Freeman, Backes, Peterson(5), Fossum, Haugland, Solberg(9),
(Ferguson, Lee, Williamson)

COUNTY SPECIAL SERVICE DISTRICTS

AN ACT

To empower boards of county park commissioners to establish special service districts for the purpose of providing police protection and garbage removal services, and declaring an emergency.

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

§ 1. Board of County Park Commissioners May Establish Service Districts.) For the purpose of providing police protection and garbage removal services and defraying the cost thereof, any board of county park commissioners may create police protection and garbage removal service districts, and may extend any such district when necessary. The appropriate police protection or garbage removal district shall be created by resolution. The district shall be designated by a name appropriate to the type of service provided for which it was created, and by a number distinguishing it from other service districts. A police protection or garbage removal district may be composed in part or entirely of or include real property which is not otherwise under the jurisdiction of the board of county park commissioners, but which is contiguous to real property under the jurisdiction of the park commissioners and directly benefited by the proposed police protection and garbage removal. The county park commissioners may provide garbage collection services in such district as designated in the resolution, and may designate police officers who shall have police powers for the enforcement of the laws of this state within such district, such police authority to be executed concurrently with other law enforcement officers having jurisdiction over such area.

§ 2. Plans and Specifications Required—Approval.) Following the creation of a service district as provided in section 1 of this Act, the board of county park commissioners shall prepare plans and specifications for such project, including an estimate of the probable cost. The plans, specifications, and estimates provided for shall be approved by a resolution of the board of county park commissioners. The plans, specifications, and estimates shall be the property of the county and shall be filed in the office of the county auditor and shall remain on file in his office subject to inspection by interested persons.

§ 3. Hearing—Notice.) The board of county park commissioners shall cause the resolution adopting the plans, specifications, and estimates for the police protection or garbage removal district to be published once each week for two consecutive weeks in the official county newspaper, together with a notice of the time and place where the board of county park commissioners will meet to hear objections made by any interested party, his agent, or attorney. The date set for such hearing shall be not less than fifteen days after the first publication of the notice.

§ 4. Protest Against Establishing Service District—Hearing to Determine Sufficiency—When Protest a Bar to Proceeding.) If, within thirty days after the hearing provided for in section 3 of this Act, written protests signed by the owners of more than half of the area of the property included within the service district are filed in the offices of the county auditor, the protests shall be a bar against proceeding further with the project described in the specifications. The board of county park commissioners, at its next meeting after the expiration of the time for filing such protests, shall consider and determine the sufficiency of any protests filed. If no protests are filed or the protests are found to be insufficient or invalid, the board of county park commissioners may initiate and carry on the project.

§ 5. Assessment of Expenses.) The expenses of maintaining the service provided by the service district shall be assessed against the parcels of land properly chargeable therewith, in amounts to be determined by and in accordance with the provisions of section 40-23-05 of the North Dakota Century Code. For the purpose of assessing the expenses of a service district, the board of county park commissioners shall serve as the special assessment commission.

§ 6. Assessment List To Be Prepared—Contents—Certificate Attached to Assessment List.) The board of county park commissioners, serving as the special assessment commission, shall make or cause to be made a complete list of the annual benefits and assessments setting forth each lot or tract of land assessed, the amount each lot or tract is annually benefited by the service, and the amount annually assessed against each. There shall be attached to the list of assessments a certificate signed by a majority of the members of the county park commission certifying that the same is a true and correct assessment of the property therein described to the best of their judgment, and stating the several items of expense included in the assessment.

§ 7. Publication of Assessment List and Notice of Hearing of Objections to List.) The county park commission shall cause the assessment list, which list shall not include the amount each lot or tract is benefited by the improvement, to be published once each week for two consecutive weeks in the official newspaper of the county, together with a notice of the time when and the place where the commission will meet to hear objections made to any assessment by any interested party, his agent, or attorney; provided that in lieu of publication of an assessment list, if it includes more than five thousand lots or tracts, the commission may cause it to be filed and made available for public inspection at all times after the first publication of the notice, during reasonable business hours, at such place as shall be designated in the published notice. The date set for such hearing shall be not less than fifteen days after the first publication of the notice.

§ 8. Alteration of Assessments at Hearing — Limitations.) At the hearing, the county park commission may make such alterations in the assessments as in its opinion may be just or necessary to correct any error in the assessment list. The commission may increase or diminish any assessment as may be just and necessary to make the aggregate of all assessments equal to the total amount required to pay the entire cost of the service for which such assessments are made. No assessment shall exceed the benefits as determined by the commission to the parcel of land assessed.

§ 9. Confirmation of Assessment List After Hearing—Filing List.) The county park commission, after the hearing, shall confirm the list and attach thereto its further certificate certifying that the list is correct as confirmed by it. The commission thereafter shall file the assessment list in the office of the county auditor.

§ 10. Publication of Notice of Confirmation of Assessment List and Meeting for Action Upon Assessments.) The county auditor shall publish at least once in the official newspaper of the county a notice stating that the assessment list has been confirmed by the county park commission and filed in his office and is open to public inspection. The notice also shall state the time when and the place where the board of county commissioners will act upon such assessment list. The assessment list shall be acted upon by the board of county commissioners at a regular or special meeting occurring more than fifteen days after the publication of such notice.

§ 11. Aggrieved Person May File Notice of Appeal.) Prior to the meeting at which the board of county commissioners will act upon the assessment, any aggrieved person may appeal

from the action of the county park commission by filing with the county auditor a written notice of the appeal, stating therein the grounds upon which the appeal is based.

§ 12. Board of County Commissioners to Hear and Determine Appeals and Objections to Assessments—Altering Assessments—Limitations.) At the regular meeting of the board of county commissioners at which the assessment list is to be acted upon, any person aggrieved by the determination of the county park commission in regard to any assessment who has appealed therefrom as provided in section 11 of this Act may appear before the board of county commissioners and present his reasons why the action of the commission should not be confirmed. The board of county commissioners shall hear and determine the appeals and objections and may increase or diminish any of such assessments as it may deem just, except that the aggregate amount of all the assessments returned by the county park commission shall not be changed and no assessments as adjusted shall exceed the benefits to the parcel of land on which it is assessed as determined by the assessment commission.

§ 13. Confirmation of Assessment List by Governing Body—Certifying List—Filing.) The board of county commissioners shall confirm the assessment list, and the county auditor shall attach to the list his certificate that the same is correct as confirmed by the governing body, and thereupon shall file the list in his office.

§ 14. Use of Collections of Assessments.) All collections of special assessments levied pursuant to this Act shall be credited as received to the special fund maintained by the county for the payment of any obligations for which the assessments were levied.

§ 15. Board of County Park Commissioners May Contract—Contents.) Any board of county park commissioners may contract with one or more political subdivisions for the participation in or the performance of police protection and garbage removal services in accordance with section 54-40-08 of the North Dakota Century Code. Any such contract shall set forth fully the purpose, powers, rights, obligations, and the responsibilities, financial and otherwise, of the contracting parties.

§ 16. Service Assessment Funds and the Disbursements Thereof.) The provisions of chapter 40-24 of the North Dakota Century Code shall be followed in the collection and disbursement of the funds to be collected to cover the cost of operating a service district; provided, however, that nothing in chapter 40-24 shall limit the length of time for which assessments for

police protection and garbage removal services may be levied. Such assessments may be levied so long as the service is rendered.

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

Approved March 14, 1967.

CHAPTER 105

S. B. No. 158

(Litten, Longmire, Larson(32))

REGIONAL PLANNING AND ZONING COMMISSIONS

AN ACT

Providing for regional planning and zoning commissions for areas adjacent to cities, and repealing chapter 11-34 of the North Dakota Century Code, relating to county zoning adjacent to cities.

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

§ 1. **Regional Commissions—Appointment—Powers.**) The governing boards of counties, municipal corporations, and organized townships may cooperate to form, organize, and administer a regional planning and zoning commission for the region defined as may be agreed upon by the governing bodies of such political subdivisions. The regional commission membership shall consist of five members; namely, one from the board of county commissioners, two from the rural region affected, and two from the municipality, the members from each to be appointed by the respective governing boards. The proportion of cost of regional planning, zoning, studies, and surveys to be borne respectively by each of the said political subdivisions in the region, shall be such as may be agreed upon by their governing boards. The regional commissions, when requested by the governing board of a political subdivision in its region, may exercise any of the powers which are specified and granted to counties, municipal corporations, or organized townships in matters of planning and zoning. Upon organization of such commission, publication and hearing procedures shall be conducted pursuant to section 11-33-08 and 11-33-09 of the North Dakota Century Code. Appeal from a decision of the commission may be taken to the district court.

§ 2. **Zoning of Territory Adjacent to Cities.)** Until the organization of either a regional planning and zoning commission as provided herein or township or county zoning commission pursuant to sections 58-03-11 through 58-03-15 and chapter 11-13, respectively, of the North Dakota Century Code, any municipal corporation which shall determine to use zoning regulations shall have exclusive jurisdiction and power to zone over all land over which it has authority to control subdivisions and platting of land as provided in section 40-48-18 of the North Dakota Century Code.

§ 3. **Repeal.)** Chapter 11-34 of the North Dakota Century Code is hereby repealed.

Approved March 15, 1967.

CRIMES AND PUNISHMENTS

CHAPTER 106

S. B. No. 70

(Becker, Chesrown, Nething)

PUBLIC RECEIPTS

AN ACT

To amend and reenact section 12-01-14 of the North Dakota Century Code, relating to the issuance of receipts by public officials.

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

§ 1. Amendment.) Section 12-01-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-01-14. Receipts for Payment of Fines or Costs—Disposition of Copies—Penalty.) Any person receiving payment of any costs, fees, bond, fine, or penalty imposed by law or ordinance shall execute a written receipt in triplicate therefor, delivering the original to the person paying such costs, fees, bond, fine, or penalty, one copy to the municipality or department, and retaining one copy in his files. Any person violating any of the provisions of this section shall be guilty of a misdemeanor.

Approved February 21, 1967.

CHAPTER 107

S. B. No. 63
(Nothing)

SUNDAY CLOSING OF BUSINESSES

AN ACT

Relating to the observance of Sunday as a day of rest, to provide exceptions thereto, to provide for injunctive relief and penalties for violation thereof, and to amend and reenact section 40-05-03 of the North Dakota Century Code, relating to the regulation and inspection of food markets in cities having a population over fifteen thousand, and to repeal sections 12-21-14, 12-21-15, 12-21-16, 12-21-17, 12-21-20, 12-21-21, and 12-21-22 of the North Dakota Century Code, relating to Sunday closing laws, and declaring an emergency.

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

§ 1. Prohibition of Sunday Business and Labor.) It shall be unlawful on Sunday for any person, firm, or corporation:

1. To engage in or conduct business or labor for profit in the usual manner and location, or to operate a place of business open to the public; or
2. To cause, direct, or authorize any employee or agent to engage in or conduct business or labor for profit in the usual manner and location, or to operate a place of business open to the public.

§ 2. Exemption.) Nothing in this Act shall apply to any person who in good faith observes a day other than Sunday as the Sabbath if he refrains from engaging in or conducting business or labor for profit and closes his place of business to the public on that day.

§ 3. Personal Property Exempt.) Notwithstanding any other provisions of this Act, the sale of any of the following items of personal property shall be allowed during any and all hours on Sundays:

1. Drugs, medical and surgical supplies, or any object purchased on the written prescription of a licensed medical or dental practitioner for the treatment of a patient.
2. Food prepared for consumption on or off the premises where sold.
3. Newspaper, magazines, and books.

4. Gasoline, fuel additives, lubricants, and anti-freeze.
5. Tires.
6. Repair or replacement parts and equipment necessary to, and safety devices intended for, safe and efficient operation of land vehicles, boats, and aircraft.
7. Emergency plumbing, heating, cooling, and electrical repair and replacement parts and equipment.
8. Cooking, heating, and lighting fuel.
9. Infant supplies.
10. Camera and school supplies, stationery, and cosmetics.

§ 4. **Business Exempt.)** Notwithstanding any other provisions of this Act, the operation of any of the following businesses shall be allowed on Sundays:

1. Restaurants, cafeterias, or other prepared food service organizations.
2. Hotels, motels, and other lodging facilities.
3. Hospitals and nursing homes.
4. Dispensaries of drugs and medicines.
5. Ambulance and burial services.
6. Generation and distribution of electric power.
7. Distribution of gas, oil, and other fuels.
8. Telephone, telegraph, and messenger services.
9. Heating, refrigeration, and cooling services.
10. Railroad, bus, trolley, subway, taxi, and limousine services.
11. Water, air, and land transportation services and attendant facilities.
12. Cold storage warehousing.
13. Ice manufacturing and distribution.
14. Minimal maintenance of equipment and machinery.
15. Plant and industrial protection services.
16. Industries where continuous processing or manufacturing is required by the very nature of the process involved.
17. Newspaper publication and distribution.
18. Radio and television broadcasting.
19. Motion picture, theatrical, and musical performances.

20. Automobile service stations.
21. Athletic and sporting events.
22. Parks, beaches, and recreational facilities.
23. Scenic, historic, and tourist attractions.
24. Amusement centers, fairs, zoos, and museums.
25. Libraries.
26. Educational lectures, forums, and exhibits.
27. Service organizations (USO, YMCA, etc.).
28. Grocery stores operated by the owner-manager who regularly employs not more than three employees for the operation of said store.

§ 5. **Limitation of Application.**) Nothing in this Act shall be deemed or construed to amend other provisions of law with reference to the prohibition of work, sport, business, liquor sales, and the service of process on Sundays.

§ 6. **Injunctive Relief.**) The attorney general, a state's attorney, a mayor, a city manager, or a municipal attorney may petition the district court in whose jurisdiction the municipality is located to enjoin any violation of this Act.

§ 7. **Penalty.**) Any person, firm, or corporation that violates the provisions of this Act is guilty of a misdemeanor. Each day on which this Act is violated shall constitute one offense. The first offense shall be punished by a fine not exceeding one hundred dollars, a second offense shall be punished by a fine not exceeding five hundred dollars, and for a third and each subsequent offense a fine of not exceeding five hundred dollars for each employee caused, directed, or authorized to work in violation of this Act. Provided, however, that nothing contained herein shall be construed to permit any fine upon any employee or agent who has been caused or directed by his employer to violate the provisions of this Act.

§ 8. **Amendment.**) Section 40-05-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-05-03. Cities Having Population of Fifteen Thousand May Provide for Regulation and Inspection of Food Markets.) The governing body of any city having a population of fifteen thousand or more may enact ordinances providing for the regulation and inspection of food markets, stores, and other places where food intended for human consumption is sold at retail.

***§ 9. Repeal.)** Sections 12-21-14, 12-21-15, 12-21-16, 12-21-17, 12-21-20, 12-21-21, and 12-21-22 of the North Dakota Century Code are hereby repealed.

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

Approved March 14, 1967.

***Note:** Section 12-21-15 was also amended by section 22, chapter 323, 1967 S.L.

CHAPTER 108

S. B. No. 114
(Longmire, Stafne)

REPEAL OF CRIMINAL PENALTY FOR ATTEMPTED SUICIDE

AN ACT

To repeal section 12-33-02 of the North Dakota Century Code, relating to attempting suicide—punishment.

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

§ 1. Repeal.) Section 12-33-02 of the North Dakota Century Code is hereby repealed.

Approved March 4, 1967.

CHAPTER 109

S. B. No. 127
(Chesrown, Longmire)

BUYING OR RECEIVING STOLEN PROPERTY

AN ACT

To amend and reenact section 12-40-19 of the North Dakota Century Code, relating to the buying or receiving of stolen property.

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

§ 1. Amendment.) Section 12-40-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-40-19. Buying or Receiving Stolen Property—Punishment.) Every person who buys or receives, in any manner, upon any consideration, any personal property of the value of one hundred dollars or more, that has been stolen from another, knowing the same to have been stolen, and with the intent to deprive the owner thereof, shall be punished by imprisonment in the penitentiary for not less than one year nor more than five years. If the value of the goods is less than one hundred dollars, he shall be punished by imprisonment in the county jail for not more than one year, or by a fine of not more than five hundred dollars, or by both such fine and imprisonment.

Approved February 22, 1967.

CHAPTER 110

S. B. No. 133
(Nething, Forkner, Geving)

“MALICIOUS MISCHIEF” DEFINED

AN ACT

To amend and reenact section 12-41-10 of the North Dakota Century Code, relating to the definition of “malicious mischief”.

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

§ 1. Amendment.) Section 12-41-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-41-10. “Willful Mischief” Defined — Misdemeanor.) Every person who willfully and without just cause or excuse injures, defaces, or destroys any real or personal property not his own, in cases other than such as are specified in this chapter, is guilty of a misdemeanor and in addition to the punishment prescribed therefor is liable in treble damages for the injury done, to be recovered in a civil action by the owner of such property, or by the public officer having charge thereof.

Approved February 25, 1967.

CHAPTER 111

H. B. No. 618
(Brown)

MALICIOUS INJURY TO FREEHOLD

AN ACT

To amend and reenact subsection 6 of section 12-41-11 of the 1965 Supplement to the North Dakota Century Code, relating to the malicious injury to a freehold.

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

§ 1. Amendment.) Subsection 6 of section 12-41-11 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

6. Hauling or depositing upon public property or 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 putrefaction 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 February 24, 1967.

CHAPTER 112

S. B. No. 129
(Chesrown, Longmire)

FALSE REPORT TO PEACE OFFICER

AN ACT

To create and enact section 12-42-09 of the North Dakota Century Code, relating to making false reports to a peace officer.

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

§ 1.) Section 12-42-09 of the North Dakota Century Code is hereby created and enacted to read as follows:

12-42-09. False Reports to Peace Officer Misdemeanor.) Any person who gratuitously reports or causes to be reported to any peace officer false information relating to an incident or crime, knowing that such information is false, or false information relating to alleged incident or crime, knowing that it did not occur, is guilty of a misdemeanor.

Approved March 1, 1967.

CHAPTER 113

H. B. No. 720
(Allen, Aas)

LABOR PERFORMED BY CONVICTED PERSONS

AN ACT

To amend and reenact sections 12-44-33 and 40-18-12 of the North Dakota Century Code, relating to the performance of hard labor by convicts and the discounting of fines and judgments because of such hard labor.

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

§ 1. **Amendment.)** Section 12-44-33 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-44-33. Convict to Receive Credit for Labor to Apply on Judgment.) For each day of labor performed by a convict under the provisions of this chapter, there shall be credited on any judgment for fine and costs against him the sum of five dollars.

§ 2. **Amendment.)** Section 40-18-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-18-12. Commitment for Violation of City or Village Ordinance—Limitation—Labor in Lieu of Fine.) If the defendant is found guilty of the violation of a municipal ordinance and is committed as is provided in section 40-11-12, the term of his imprisonment shall not exceed three months for any one offense. The governing body may provide by ordinance that each person so committed shall be required to work for the municipality at such labor as his strength will permit, not exceeding ten hours in each working day, and for such work the person so imprisoned shall be allowed for each day, exclusive of his board, five dollars on account of the fines and costs assessed against him.

Approved March 4, 1967.

CHAPTER 114

H. B. No. 855

(Sanstead, Seibel, Larson(29))

DISPOSITION OF MONEYS OF INDUSTRIAL
SCHOOL STUDENTS

AN ACT

To amend and reenact section 12-46-19 of the North Dakota Century Code, permitting North Dakota industrial school students freer use of acquired moneys.

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

§ 1. **Amendment.)** Section 12-46-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-46-19. Disposition of Moneys Earned.) The superintendent of the North Dakota industrial school shall keep a students' account ledger, in which shall be opened an account with each student. The earnings of each student may be used for personal needs as approved by the superintendent.

Approved February 27, 1967.

CHAPTER 115

S. B. No. 371
(Larson(17), Berube)

REPORT OF PARDON BOARD ACTION

AN ACT

Repealing section 12-55-32 of the North Dakota Century Code, requiring communications regarding actions of pardon board.

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

§ 1. Repeal.) Section 12-55-32 of the North Dakota Century Code is hereby repealed.

Approved March 4, 1967.

CHAPTER 116

H. B. No. 827
(Kelsch)

POWERS OF BUREAU OF CRIMINAL IDENTIFICATION

AN ACT

To create subsection 9 of section 12-60-07 of the North Dakota Century Code, relating to the powers of the bureau of criminal identification, to amend and reenact subsection 8 of section 12-60-07 of the North Dakota Century Code, relating to the powers and duties of the bureau of criminal identification of the attorney general's office, and to repeal section 54-12-12 of the North Dakota Century Code, relating to the powers and duties of the inspectors of the attorney general's licensing department.

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

§ 1. Amendment.) Subsection 8 of section 12-60-07 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted and subsection 9 of section 12-60-07 of the 1965 Supplement to the North Dakota Century Code is hereby created, all to read as follows:

8. To accumulate, keep and maintain a file for the identification of persons convicted of issuing false and fraudulent checks, no account checks and nonsufficient

funds checks, and to aid local law enforcement officials in the detection, apprehension and conviction of said persons;

9. To perform the inspection and enforcement duties for the attorney general's licensing department.

§ 2. Repeal.) Section 54-12-12 of the 1965 Supplement to the North Dakota Century Code is hereby repealed.

Approved March 6, 1967.

CHAPTER 117

S. B. No. 180
(Nothing)

COMBINED LAW ENFORCEMENT COUNCIL

AN ACT

To provide for a combined law enforcement council and prescribing its duties and making an appropriation therefor and repealing chapter 54-40* and section 12-44-07, relating to peace officers commission and the duties of the grand jury.

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

§ 1. Creation of Council—Selection of Members.) The North Dakota combined law enforcement council shall consist of the attorney general, who shall be chairman; the superintendent of the bureau of criminal identification and apprehension; the superintendent of the highway patrol; the state parole officer; a state's attorney; a sheriff; a chief of police; and a representative of each house of the state legislature. Selection of other than ex officio members may be made by their respective associations. The legislative representative shall be chosen by the presiding officer of each chamber. Said members shall serve a term of two years, commencing July first of each odd-numbered year, provided they continue to hold the same office as when appointed to the council. The attorney general shall fill any vacancies.

§ 2. Meetings—Compensation.) Meetings shall be held at the call of the chairman or upon request of any three members of the council. Council members shall receive mileage and travel expenses, the same as state employees. Members of the council who are not full-time public employees shall receive twenty-five dollars per meeting.

§ 3. Powers and Duties.) The powers and duties of the council shall be:

1. To hire a director and such personnel as may be necessary;
2. To cooperate with and assist all federal, state and local law enforcement agencies and officials;
3. To make legislative recommendations on matters affecting law enforcement;
4. To accept gifts or grants or contract with persons or organizations, including the federal government, on such terms as may be beneficial to the state;
5. To make recommendations for the operation of the bureau of criminal identification and apprehension;
6. To conduct law enforcement training programs and prescribe rules of operation for same;
7. To recommend selection standards for the hiring of police officers;
8. To prescribe minimum standards of training prior to carrying a sidearm; and
9. To recommend suitable uniforms and equipment for police officers, having due regard for the size of the department and duties of the officers.

§ 4. Qualified Officers To Be Certified.) The council shall issue certificates to each officer that meets requirements established by the council. Such certificates may be different grades, depending upon the qualifications of the officers. Such certificates may be revoked after a hearing on the matter.

§ 5. Jail Standards—May Contract for Jail Facilities.) The council shall recommend rules for the operation and maintenance of county and municipal jails and for the care and treatment of inmates therein. Such rules will be posted in at least one conspicuous place in the jail whereby they may be read by inmates. A person appointed by the council may inspect each jail at least once each year to determine if such rules have been complied with. Counties and towns may enter into contracts with other governmental agencies for jail facilities.

§ 6. Rule Making Power—Appeal.) All rules and regulations adopted by the council, and appeals therefrom, shall be in accordance with chapter 28-32 of the North Dakota Century Code, the Administrative Practices Act.

§ 7. Amendment.) Section 12-60-05 of the North Dakota Century Code is hereby amended and reenacted to provide as follows:

12-60-05. Attorney General—Duties—Appointment of Personnel.) The attorney general shall have the responsibility of and shall exercise absolute control and management of the bureau. The attorney general shall appoint and fix the salary of a chief of the bureau, such special agents, and such other employees as he deems necessary to carry out the provisions of this chapter within the limits of legislative appropriations therefor.

§ 8. Repeal.) Chapter 54-50 of the North Dakota Century Code and section 12-44-07 of the North Dakota Century Code are hereby repealed.

§ 9. Appropriation.) There is hereby appropriated out of the state treasury the sum of ten thousand dollars for the purpose of carrying out the provisions of this Act.

Approved March 14, 1967.

***Note:** The designation in the title of chapter 54-40 to be repealed appears to be a typographical error since section 8 specifies that chapter 54-50 is to be repealed.

CHAPTER 118

S. B. No. 402

(Committee on Delayed Bills)

GOVERNOR'S COMMITTEE FOR STUDYING REPORT OF THE NATIONAL CRIME COMMISSION

AN ACT

Providing for a temporary governor's committee for the purpose of evaluating the report of the national crime commission and making a report to the governor and the Forty-first Legislative Assembly, and providing an appropriation.

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

§ 1. Governor's Committee.) There is hereby created a temporary governor's committee for the purpose of studying and evaluating the report of the national crime commission. Such committee shall consist of the members of the "combined law enforcement council" as created by Senate Bill Number 180 of the Fortieth Legislative Session and such additional members as may be appointed by the governor. The committee shall adopt its own rules of procedure and select its own chairman and officers, except that the attorney general or his designee shall serve as executive director of the committee. Members of the committee may, in the discretion of the attor-

ney general, be compensated for actual expense incurred in the performance of their duties in the same manner and amounts as provided by law for other state officials from funds appropriated in section 2 of this Act, and in the discretion of the attorney general any employees or staff of such committee may also be compensated for their services and expenses from such funds. The governor's committee shall make a full and complete evaluation of the report of the national crime commission and the applicability of its findings and recommendations to the state of North Dakota. The committee shall, on or before November 1, 1968, make a report of its findings and recommendations to the governor and the Forty-first Legislative Assembly. The provisions of this Act shall expire on June 30, 1969.

§ 2. Appropriation.) There is hereby appropriated out of any moneys in the general fund, not otherwise appropriated, the sum of \$500.00, or so much thereof as may be necessary, for the purpose of carrying out the provisions of section 1 of this Act.

Approved March 14, 1967.

EDUCATION

CHAPTER 119

H. B. No. 539
(Brown, Unruh)
(From LRC Study)

BOARD OF UNIVERSITY AND SCHOOL LANDS INVESTMENTS

AN ACT

To amend and reenact sections 15-01-02, 15-03-04, 15-03-15, and 15-03-18 of the North Dakota Century Code, relating to changing the investment list and procedures for the various permanent funds under the control of the board of university and school lands and providing an effective date.

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

§ 1. **Amendment.)** Section 15-01-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-01-02. Powers—Control of Public Lands and Permanent Funds.) The board shall have:

1. Full control of the selection, appraisalment, rental, sale, disposal, and management of:
 - a. Lands donated or granted by or received from the United States or from any other source for the support and maintenance of the common schools;
 - b. All lands which shall fall to the state by escheat;
 - c. All lands donated or granted by or received from the United States or from any other source for the maintenance of the educational, penal, or charitable institutions;
 - d. All lands acquired by the state through the investment of the permanent school funds of the state as the result of mortgage foreclosure or otherwise;
2. Full control of the investment of the permanent funds derived from the sale of any of the lands described in subsection 1 of this section;
3. Full control of such percent of the proceeds of any sale of public lands as may be granted to the state by the United States on such sale;

4. Full control of the proceeds of any property that shall fall to the state by escheat and of the proceeds of all gifts and donations to the state for the support or maintenance of the common schools, and of all other property otherwise acquired by the state for the maintenance of the common schools. Any gift to the state not specifically appropriated to any other purpose shall be considered as a gift for the support and maintenance of the common schools.

§ 2. **Amendment.)** Section 15-03-04 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-03-04. Investment of Funds—Purchase of Securities and Mortgages—Appraisal.) Subject to the provisions of section 15-03-05, the board of university and school lands shall invest the money belonging to the permanent funds under its control in the following securities:

1. First mortgages on farm lands and improvements thereon in this state to the extent such mortgages are guaranteed or insured by the United States or any instrumentality thereof, or if not so guaranteed or insured, not exceeding in amount one-half of the actual value of the property on which the same may be loaned, such value to be determined by the board of appraisal of school lands; and
2. All investments that are enumerated under section 21-10-07 of this Code as legal investments for the state investment board.

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

15-03-15. Meeting to Consider Investments and Approval of Farm Loans—Notice—Vote Required.) The board of university and school lands shall not purchase nor approve the purchase of any securities nor approve the application for any farm loan except at a meeting of the board held pursuant to a notice given by the secretary of the board to every member in time to afford each member an opportunity to be present at the meeting. The notice shall specify that the question of the purchase or the action on a proposal for the purchase of certain securities or the approval of the application for certain farm loans is to be considered at the meeting. A majority vote of all the members of the board shall be required to purchase any securities or to approve the application for any farm loan, and such vote shall be taken by yeas and nays and shall be duly recorded

in the books of the board. The manager of the bank of North Dakota shall serve as counsel and advisor to this board whenever they are considering the investment of funds in securities enumerated in section 21-10-07 of the North Dakota Century Code.

§ 4. **Amendment.**) Section 15-03-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-03-18. Commissioner to Receive and Present Offers for Bond Sales—Maintain Records of Mortgages and Securities.) The commissioner of university and school lands shall receive and present to the board all offers for the sale of bonds. He shall keep such books as may be necessary to register and describe all securities and mortgages purchased or taken by the board for the benefit of any of the permanent funds under its control. The books kept by the commissioner shall be ruled to permit:

1. The registry of the name and residence of the person offering to sell any bonds, securities, or mortgages;
2. If bonds, the designation of the municipality, corporation, or sovereignty for which the offer is made;
3. A full and detailed description of every governmental bond, whether of the United States, this or any other state, or a municipality, and the date, number, series, amount, and rate of interest of each bond, and when the interest and principal, respectively, are payable;
4. If mortgages, a description of the property mortgaged;
5. If any other security, a full and detailed description of the security according to sound accounting principles.

The foregoing record shall be made before the completion of the purchase of any bond, security, or mortgage.

§ 5. **Effective Date of Act.)** This Act shall not become effective unless and until the people approve the constitutional amendment submitted for approval to the electorate of this state at the general election in 1968 as designated in House Concurrent Resolution "A" of the Fortieth Legislative Assembly.

Approved March 15, 1967.

CHAPTER 120

H. B. No. 738
(Knudson, Austin, Rivinius)

BOARD OF UNIVERSITY AND SCHOOL LANDS
FARM LOAN INVESTMENTS

AN ACT

To amend and reenact section 15-03-09 of the North Dakota Century Code, relating to the term, interest and payment of farm loans in which the board of university and school lands make investment.

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

§ 1. **Amendment.**) Section 15-03-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-03-09. Term, Interest, Payment of Farm Loans.) If the mortgage on farm lands is guaranteed or insured by the United States or any instrumentality thereof it may run for a period of not more than forty years and the fund so invested shall bear interest at a rate not less than three percent per annum. If the mortgage is not so guaranteed or insured it shall be for a period of not more than thirty years and the funds so invested shall bear interest at a rate not less than three and one-half percent per annum. The principal and interest shall be payable to the commissioner of university and school lands at Bismarck, North Dakota, and the interest shall be payable annually or at shorter intervals. The payment of such mortgage, both principal and interest, may be amortized over the period of such mortgage. The commissioner shall report and pay into the state treasury all collections of principal and interest payments. The borrower shall have the option of paying ten percent of the principal or any multiple thereof at any interest paying date. Any mortgage may be satisfied at any interest paying date on payment of the entire amount of indebtedness. When the interest is paid it shall become a part of the interest and income fund.

Approved March 4, 1967.

CHAPTER 121

H. B. No. 739
(Knudson, Austin, Rivinius)

EXCHANGE OF LANDS

AN ACT

To create and enact section 15-06-19.1 of the North Dakota Century Code, providing for the exchange of lands under control of the board of university and school lands with lands of the United States.

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

§ 1.) Section 15-06-19.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

15-06-19.1. Exchange of Lands with the United States.) Original grant school or institutional lands and any other lands controlled by the board of university and school lands may be exchanged for lands of like character and value belonging to the United States government when it appears that such exchange will be advantageous to the state of North Dakota and will effect an increase in the value of such lands by consolidation or by making lands more accessible. Such exchange shall be subject to the approval of the proper department of the federal government, and such lands shall be appraised as provided by law in the case of sale of real property owned by the state. The state also may execute and deliver proper conveyances of such land in the manner and form provided by law without the necessity of complying with any statute requiring the giving of notice of exchange or competitive bidding, and may accept in return therefor a proper instrument of conveyance to the state of North Dakota of the land for which such lands are exchanged, and the lands so acquired shall be subject to the trust to which the lands exchanged therefor were subject.

Approved March 4, 1967.

CHAPTER 122

H. B. No. 540
(Brown, Unruh)
(From LRC Study)

CONTROL OF FUNDS AND COMPENSATION BY AND FOR
STATE BOARD OF HIGHER EDUCATION

AN ACT

To amend and reenact sections 15-10-08 and 15-10-16 of the North Dakota Century Code, relating to compensation and expenses of the state board of higher education and control of funds and appropriations of the institutions of higher learning, and declaring an effective date.

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

§ 1. **Amendment.)** Section 15-10-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-10-08. Compensation and Expenses of Board Members.) All members of the state board of higher education shall receive twenty-five dollars per day for their attendance at regular or special meetings of the board or in the performance of such special duties as the board may direct. In addition to such compensation, they shall receive travel expenses in the same manner and at the same rates as provided by law for other state officials for necessary travels in the performance of their duties. The amounts herein specified shall be the only compensation allowable.

§ 2. **Amendment.)** Section 15-10-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-10-16. Control of Funds and Appropriations of Educational Institutions.) The state board of higher education shall have control of the expenditures of all funds allocated by the Constitution or by law to each of the institutions under its jurisdiction; provided, however, no funds shall be used for any institution or purpose other than that for which it was received or as allocated by law.

§ 3. **Effective Date of Act.)** This Act shall not become effective unless and until the people approve the Constitutional Amendment submitted for approval to the electorate of this state at the general election in 1968 as designated in House Concurrent Resolution "A" of the Fortieth Legislative Assembly.

Approved March 14, 1967.

CHAPTER 123

S. B. No. 109
(Redlin, Pyle, Stafne)

DUTIES OF HIGHER EDUCATION FACILITIES COMMISSION

AN ACT

To create and enact subsection 6 of section 15-10-30 of the 1965 Supplement to the North Dakota Century Code, relating to the powers and duties of the higher education facilities commission.

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

§ 1.) Subsection 6 of section 15-10-30 of the 1965 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

6. To administer such other federal programs affecting higher education as the governor may designate.

Approved February 27, 1967.

CHAPTER 124

H. B. No. 657
(Aamoth, Duncan, McDonald(21), Jenkins)

EASEMENTS UPON REAL PROPERTY UNDER CONTROL OF
BOARD OF HIGHER EDUCATION

AN ACT

To provide for authorization to the state board of higher education to grant easements upon real property under its administrative jurisdiction.

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

§ 1. **Granting Easements to State-Owned Land by the State Board of Higher Education.)** The state board of higher education is hereby authorized to grant an easement to any public utility or governmental entity upon or across any real property which it administers and which is owned by the state for the use or benefit of a state-supported institution of higher learning after such board has determined that the granting of the easement would be to the distinct advantage and benefit of an institution of higher learning or the state of North Dakota.

Any property rights transferred under the authority of this section shall be transferred and conveyed by quitclaim instrument or easement executed in the name of the state of North Dakota by the governor and attested by the secretary of state.

Upon the granting of an easement under the authority of this section, any proceeds shall be deposited in the general fund in the state treasury.

Approved March 6, 1967.

CHAPTER 125

S. B. No. 30
(Christensen, Lips)

(Recommended by Legislative Audit and Fiscal Review Committee)

HIGHER EDUCATION CONTINGENCY FUNDS

AN ACT

To provide for the authorization of contingency funds to institutions under the board of higher education.

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

§ 1. Authorization of Contingency Funds at Institutions Under the Board of Higher Education.) Upon approval by the director of the department of accounts and purchases, the state auditor, and the state treasurer, any institution under the board of higher education may maintain a local contingency fund from funds appropriated by the legislature in an amount and method approved by the director of the department of accounts and purchases from which it can make disbursements or refunds for the immediate use of the payee in instances where timely payment cannot be made under regular expenditure procedures. When such local contingency funds shall be so depleted as to require replenishment, a voucher shall be drawn upon the state treasurer, subject to the approval of the state auditing board, for the amount necessary to replenish such fund. Such voucher, or an accompanying abstract, shall itemize the purpose for which funds have been expended, the name of the payee, and the amounts paid.

Approved February 27, 1967.

CHAPTER 126

S. B. No. 188

(Larson(32), Lips, Wilhite)

STATE AID FOR JUNIOR COLLEGES OR EDUCATIONAL
CENTERS

AN ACT

To amend and reenact section 15-18-07 of the 1965 Supplement to the North Dakota Century Code, relating to state aid for junior colleges or educational centers.

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

§ 1. **Amendment.)** Section 15-18-07 of the 1965 Supplement to the North Dakota Century Code 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 two hundred fifty 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 during each calendar week in academic courses meeting standards prescribed by the state board of higher education, or in trade courses meeting standards prescribed by the state board for vocational education. 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.

If the funds appropriated for the purpose of carrying out the provisions of this section should prove to be insufficient based on the number of students in attendance at a junior college or educational center as provided in this section, the amounts to be paid to such junior colleges or educational centers shall be reduced in such manner so that the payments for each student in attendance at a junior college or educational center will be made on a pro rata basis.

Approved March 15, 1967.

CHAPTER 127

H. B. No. 706

(Jones, Tollefson, Halcrow, Wagner)

JUNIOR COLLEGE BOARDS OF CONTROL

AN ACT

To provide for the establishment of junior college boards of control.

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

§ 1. Junior College Boards of Control — Expenditures — Budget—Members—Terms—Compensation.) The school board of any public school district maintaining a junior college shall have the authority to appoint a board of control to direct the management and operation of such junior college. The board of control may have the authority to employ teachers and other personnel, prescribe courses of study, and purchase equipment and supplies and may have the duty of generally managing such junior college. The board of control shall prepare and submit to the school board an annual budget for the operation of such junior college and shall have the authority to approve the expenditures of funds, within the limitations of the budget and perform such other functions as the school board may prescribe. The school board shall have the right to approve, amend, or deny any decision made by the junior college board of control. The board of control may appoint a secretary to keep the minutes and records of said board.

The board of control shall consist of five members. Each member of the board shall hold office subject to removal at the pleasure of the school board for a term of five years except that the five members first appointed under the authority of this Act shall be appointed for the following terms: One for one year, one for two years, one for three years, one for four years, and one for five years as designated by the members of the school board. Any appointment to fill a vacancy shall be for the unexpired portion of the term. Members of the board of control shall serve without pay, but they may receive reimbursement for actual and necessary expenses incurred in the performance of their duties in the same manner and amounts as members of the school board.

Approved March 15, 1967.

CHAPTER 128

H. B. No. 602

(Johnson(23), Giffey, Sandness)

DUTIES OF STATE BOARD OF PUBLIC SCHOOL EDUCATION RELATING TO VOCATIONAL EDUCATION

AN ACT

To amend and reenact section 15-20-04 of the North Dakota Century Code, relating to school district contracts and joint programs.

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

§ 1. **Amendment.)** Section 15-20-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-20-04. Powers and Duties of State Board of Public School Education Relating to Vocational Education.) The state board of public school education shall have all authority necessary to cooperate with the United States office of education in the department of health, education and welfare or other department or agency of the United States of America in the administration of Acts of Congress relating to vocational education, including the following powers and duties:

1. To administer any legislation enacted by the legislative assembly of this state pursuant to or in conformity with Acts of Congress relating to vocational education;
2. To administer the funds provided by the federal government and by this state for the promotion of vocational

- education in agricultural, trade, industrial, home economics, distributive education, office education, health occupations, and technical education subjects;
3. To formulate plans for the promotion of vocational education in such subjects as are an essential and integral part of the public school system of education in this state;
 4. To provide for the preparation of teachers of the subjects mentioned in this section;
 5. To fix the compensation of such officers and assistants as may be necessary to administer the federal acts and the provisions of this chapter relating to vocational education and to pay the same and other necessary expenses of administration from any funds appropriated for such purpose;
 6. To make studies and investigations relating to vocational education;
 7. To promote and aid in the establishments of schools, departments, or classes giving training in the subjects mentioned in this section, and to cooperate with local communities in the maintenance of vocational schools, departments, or classes;
 8. To prescribe the qualifications and provide for the certification of teachers, directors, and supervisors in the subjects mentioned in this section; and
 9. To cooperate with governing bodies of school districts and with organizations and communities in the maintenance of classes for the preparation of teachers, directors, and supervisors of vocational education, to maintain classes for such purposes under its own direction and control, and to establish and control, by general regulations, the qualifications to be possessed by persons engaged in the training of vocational teachers.

Approved February 24, 1967.

CHAPTER 129

H. B. No. 603
(Johnson(23), Giffey, Sandness)

COOPERATION OF SCHOOL BOARDS IN VOCATIONAL
EDUCATION

AN ACT

To amend and reenact sections 15-20-06 and 15-40-04 of the North Dakota Century Code, relating to cooperation of school boards in vocational education.

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

§ 1. **Amendment.)** Section 15-20-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-20-06. Cooperation of School Boards in Vocational Education.) The governing body of any school district and the board of trustees of any county agricultural and training school may cooperate with the state board of public school education in the establishment and maintenance of schools, departments, or classes in vocational education giving instruction in agricultural, trade, industrial, home economics, distributive education, office education, health occupations, or technical education subjects, and may use any moneys raised by public taxation for such purposes in the same manner as the moneys for other school purposes are used for the maintenance and support of public schools. When any school, department or class giving instruction in vocational education has been approved by the state board of public school education, it shall be entitled to share in any federal and state funds available for vocational education.

§ 2. **Amendment.)** Section 15-40-04 of the 1965 Supplement to 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 Education—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, trade, industrial, home economics, distributive education, office education, health occupations, or technical education subjects, 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.

Approved March 14, 1967.

CHAPTER 130

H. B. No. 895
(Fossum, Freeman)

JOINT SERVICE OF COUNTY SUPERINTENDENT
OF SCHOOLS

AN ACT

To allow a county which has a vacancy in the office of county superintendent of schools to enter into an agreement with an adjacent county to provide services to such county, and declaring an emergency.

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

§ 1. Contract for Services from Office of Adjacent County Superintendent of Schools.) In any county in which no qualified person has been elected to the office of county superintendent of schools or in which a vacancy exists for other reasons, the board of county commissioners of such county shall, if no qualified person is appointed to such office, enter into an agreement, pursuant to the provisions of section 54-40-08 of the North Dakota Century Code, with the board of county commissioners of an adjacent county which has a county superintendent of schools to have such county's superintendent of schools provide county superintendent of school services to the county in which the office is vacant. The board of county commissioners of each county shall determine the salary of such county superintendent of schools for providing such service, and the combined population of both counties may be taken into consideration for determining such salary. Such salary paid may exceed the limitation set forth in section 11-10-10 of the North Dakota Century Code for a single county. Any contracts or agreements entered into pursuant to the provisions of this Act shall be approved by the state board of public education. Each agreement entered into shall not

exceed one year in duration and each such agreement shall expire on January first of each 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 4, 1967.

CHAPTER 131

H. B. No. 588
(Rundle, Johnson(39))

ELECTION OF JOINT COUNTY SUPERINTENDENT OF SCHOOLS

AN ACT

Providing for the election of a county superintendent of schools to serve two or more counties or parts thereof, which office and area are to be served by a single county superintendent of schools to be established either upon a petition of the electorate or upon initiation of a plan by boards of county commissioners setting forth the area and approved by the electorate of such affected counties and providing for the sharing of the costs of such office.

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

§ 1. **Two or More Counties or Parts Thereof May Have a Common County Superintendent of Schools—Boards of County Commissioners to Initiate or Petition by Electors and Formulate Plan—Approval.)** Whenever five percent of the qualified electors of a county or part thereof, as determined by the vote cast for the office of governor at the last general election at which such office was voted upon, shall sign and file a petition setting forth the areas with the county auditor of such county requesting that a county superintendent be elected by two or more contiguous counties or parts thereof to perform the functions of such office for such counties, the county auditor shall transmit a certified copy of such petition to the county auditors of the counties set forth in such petition. Upon receiving such petitions the boards of county commissioners of each county affected by said petition shall either by joint action or upon a resolution passed by a majority of each board formulate a plan for a county superintendent of schools to be elected for a term of four years and serve as the county superintendent of schools for the counties or parts thereof designated by such plan. In formulating such plan, the boards of county commissioners shall consult with school board presidents

affected by such plan. Such plan shall encompass all necessary provisions relating to location and sharing of costs of the office so established and the boards of county commissioners shall be authorized to expend funds of the several counties or parts thereof pursuant to such plan. By joint action the boards of county commissioners shall call a public hearing by publishing a notice in the official newspaper in each county at least fourteen days prior to the date of hearing on the proposed plan. Pursuant to such public hearing such plan shall be submitted to the state board of public school education for approval or disapproval. Upon approval by the state board of public school education, the plan shall be submitted by the county auditor to a vote of the people in each county or parts of a county at an election held prior to July first preceding the expiration of the current term of office of county superintendent of schools. If a majority of the votes cast in each county or parts of a county be in approval, the plan shall go into effect with the beginning of the next term of office for the county superintendent of schools, provided the remaining part or parts of the county are embraced in a similar plan with another county which has been approved by the necessary vote. The county auditors of each county or parts thereof shall place the office on the regular no-party ballot. The canvassing of votes, certifying of nominations, and certifying of elections for any county superintendent elected under the provisions of this Act shall be carried out in the same manner as for candidates for the legislative assembly.

Approved March 4, 1967.

CHAPTER 132

H. B. 795
(Kelsch)

ANNEXATION OF SCHOOL DISTRICT TERRITORY

AN ACT

To amend and reenact section 15-27-06 of the North Dakota Century Code, relating to limitations on power to detach and attach territory.

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

§ 1. **Amendment.**) Section 15-27-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-27-06. Limitations on Power to Detach and Attach Territory.) No territory shall be detached from one school district for annexation to another school district if the part of the original district remaining after the proposed annexation would have a net assessed valuation as defined in subsection 7 of section 57-02-01 of less than one hundred thousand dollars, if one teacher is employed, or less than one hundred twenty-five thousand dollars for each teacher employed in the remaining territory if the remaining territory has a graded school with two or more teachers. This limitation shall not apply when the proposed annexation shall have the consent of both school boards involved, reorganization committee or committees, the county and state and county superintendent or superintendents involved.

Approved March 14, 1967.

CHAPTER 133

H. B. No. 717

(Ganser, Larson(29), Bernabucci, Ferguson, Reimers)

COMPENSATION OF SCHOOL BOARD AND COMMITTEE FOR REORGANIZATION MEMBERS

AN ACT

To amend and reenact sections 15-29-05 and 15-53-05 of the North Dakota Century Code, relating to the compensation of school board members and to the county committee for reorganization of school districts.

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

§ 1. Amendment.) Section 15-29-05 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-29-05. Compensation of Board Members.) Each member of the school board may receive not in excess of five dollars as compensation for each meeting of the board actually attended by him, but no compensation shall be allowed for more than eighteen meetings in any one year. In addition thereto, each member of the school board may receive eight and one-half cents for every mile of necessary travel in going to and returning from the place of meeting of the school board, on the most usual route. No mileage shall be allowed for more than eighteen meetings in any one year.

§ 2. Amendment.) Section 15-53-05 of the 1965 Supplement to 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 section 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. In addition thereto, each member may also receive five dollars as compensation for each meeting of the committee actually attended by him. 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.

Approved March 6, 1967.

CHAPTER 134

H. B. No. 848
(Knudson)

SCHOOL BOARD ORGANIZATION

AN ACT

To create and enact subsection 19 of section 15-29-08 of the North Dakota Century Code, relating to school board's authority to organize.

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

§ 1.) Subsection 19 of section 15-29-08 of the North Dakota Century Code is hereby created and enacted to read as follows:

19. The legislative assembly hereby recognizes the necessity for school boards to organize on the county and state levels, and the legislative assembly hereby authorizes local school boards to pay membership dues to county and state associations and further authorizes county associations to pay membership dues to the state association.

Approved March 14, 1967.

CHAPTER 135

S. B. No. 57
(Lips, Trenbeath)

CANCELLATION AND DESTRUCTION OF WARRANTS

AN ACT

To create and enact sections 15-29-14 and 40-17-09.1 of the North Dakota Century Code, relating to the cancellation of outstanding warrants and the destruction of canceled warrants.

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

§ 1.) Section 15-29-14 of the North Dakota Century Code is hereby created and enacted to read as follows:

15-29-14. Warrants—Cancellation—Destruction—Description in Minutes.) The school board, at a regular meeting, may cancel and destroy all warrants drawn on any fund of the

school district which have remained on file for a period of six years or more next preceding the regular meeting on which the cancellation takes place. The school board may cancel and destroy all warrants and checks which have been subject to payment and which have not been presented for payment for a period of six years or more next preceding such regular meeting. The school board, before canceling and destroying any such warrants or checks, shall cause to be entered in the minutes of its proceedings a brief description of the warrant or check, containing the name of the payee, and the number, date, and amount of each warrant or check to be canceled and destroyed. If the party entitled to any such warrant or check, or to payment thereon, shall appear thereafter and give good and sufficient reason for his delay in calling for such warrant or in presenting the same for payment, the school board may issue to him a new warrant or check in the amount to which he is entitled, except for the statute of limitations. After the same have been first offered to the state historical society, the school board may destroy by burning any canceled warrant after the passage of ten years from its date of cancellation.

§ 2.) Section 40-17-09.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

40-17-09.1. Warrants—Cancellation—Destruction—Description in Minutes.) The governing body, at a regular meeting, may cancel and destroy all warrants drawn on any fund of the city which have remained on file for a period of six years or more next preceding the regular meeting at which the cancellation takes place. The governing body may cancel and destroy all warrants and checks which have been subject to payment and which have not been presented for payment for a period of six years or more next preceding such regular meeting. The governing body, before canceling and destroying any such warrants or checks, shall cause to be entered in the minutes of its proceedings a brief description of the warrant or check, containing the name of the payee, and the number, date, and amount of each warrant or check to be canceled and destroyed. If the party entitled to any such warrant or check, or to payment thereon, shall appear thereafter and give good and sufficient reason for his delay in calling for such warrant or check or in presenting the same for payment, the governing body may issue to him a new warrant or check in the amount to which he is entitled, except for the statute of limitations.

Approved February 11, 1967.

CHAPTER 136

H. B. No. 830
(Solberg(9), Wilkie)

CONTRACTS FOR SCHOOL TRANSPORTATION

AN ACT

To amend and reenact section 15-34-12 of the North Dakota Century Code, relating to contracts for school transportation.

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

§ 1. **Amendment.**) Section 15-34-12 of the 1965 Supplement to the North Dakota Century Code 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 owner or lessee 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 or by publishing such notices in a newspaper of general circulation within such 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 14, 1967.

CHAPTER 137

H. B. No. 697
(Olienyk, Bier, DeKrey, Kelsch)

TRANSPORTATION OF NONPUBLIC STUDENTS ON
PUBLIC SCHOOL BUSES

AN ACT

To provide that nonpublic school students may be transported on public school buses when authorized by the school board of a public school district and under certain conditions.

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

§ 1. Transportation of Nonpublic Elementary and High School Students—Conditions.) When authorized by the school board of a public school district providing transportation for public elementary and high school students, elementary and high school students attending nonpublic schools may be transported on public school buses to and from the point or points on established public school bus routes on such days and during the times that the public school buses normally operate. The school board of a public school district may authorize and agree to the transportation of such students only when there is passenger room available on such buses, according to the legal passenger capacity for such buses, when such buses are scheduled according to the provisions of this Act; provided, however, no payments shall be made from the county or state equalization funds for any mileage costs for any deviation from the established public routes which may be caused by any agreement entered into pursuant to this section.

Approved March 6, 1967.

CHAPTER 138

H. B. No. 774

(Froelich, McDonald(21), Knudson, Olienyk)

LIGHTING IN SCHOOL ROOMS

AN ACT

To amend and reenact subsection 3 of section 15-35-02 of the 1965 Supplement to the North Dakota Century Code, relating to admission of light in elementary and high schools, and declaring an emergency.

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

§ 1. Amendment.) Subsection 3 of section 15-35-02 of the 1965 Supplement to the North Dakota Century Code is 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, except that interior classrooms shall be exempted from this provision.

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, except that interior classrooms 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, except that interior classrooms shall be exempted from this provision;

§ 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, 1967.

CHAPTER 139

S. B. No. 61
(Longmire, Larsen, Lowe)

EXTENSION OF TEACHERS' INSURANCE AND
RETIREMENT FUND

AN ACT

To amend and reenact subdivision j and to create and enact subdivision k of subsection 1 of section 15-39-01 of the North Dakota Century Code, relating to the extension of the coverage of the teachers' insurance and retirement fund.

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

§ 1.) Subdivision j of subsection 1 of section 15-39-01 is hereby amended and reenacted and subdivision k of subsection 1 of section 15-39-01 of the 1965 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

- j. Any person who serves in the capacity of substitute or part-time teacher and earns more than the maximum allowed by the Federal Social Security Act for the receipt of full social security benefits in any one school year;
- k. All certified and qualified teachers employed by any state institution, school board, or governing body who are assigned to duties directly related to the public school program but who may not be directly engaged in teaching.

Approved March 15, 1967.

CHAPTER 140

H. B. No. 577
(Brown, Boustead)

TEACHERS' RETIREMENT ANNUITIES

AN ACT

To amend and reenact section 15-39-28.1 of the 1965 Supplement to the North Dakota Century Code, relating to teachers' retirement annuities.

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

§ 1. **Amendment.)** Section 15-39-28.1 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-39-28.1. Retirement Annuities — Minimum.) Notwithstanding any other provision of law to the contrary, the amount of annuity payable to any teacher who has retired under the provisions of this chapter, shall not be less in amount than the sum of sixty dollars per month. Provided, however, that any teacher who has taught in North Dakota and paid into the fund for twenty-five years or more and has reached the age of seventy shall receive an annuity of not less than the sum of one hundred dollars per month.

Approved March 4, 1967.

CHAPTER 141

S. B. No. 112
(Mutch, Ringsak, Roen, Robinson)

WITHDRAWAL OF TEACHER FROM RETIREMENT PLAN

AN ACT

To amend and reenact section 15-39-40 of the North Dakota Century Code, relating to teachers' insurance retirement fund, and declaring an emergency.

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

§ 1. **Amendment.)** Section 15-39-40 of the 1965 Supplement to 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 three years he begins teaching after such withdrawal or within three years 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.

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

Approved March 14, 1967.

CHAPTER 142

S. B. No. 228

(Trenbeath, Kelly(24), Kautzmann, Roen, Ruummele,
(Nasset, Geving, Sands, Pyle, Becker)

ELEMENTARY AND SECONDARY SCHOOL FOUNDATION
PROGRAM

AN ACT

To amend and reenact sections 15-40-12 and 15-40-24 of the North Dakota Century Code, relating to legislative intent as to elementary and secondary education and to provide for the effective date or period of the Act.

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

§ 1. **Amendment.**) Section 15-40-12 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-40-12. Declaration of Legislative Intent.) Except as otherwise provided in section 15-40-24 of the North Dakota Century Code, it is hereby declared to be the intent of the legislative assembly to support elementary and secondary education through the foundation program by increasing the payments to school districts over and above that paid in the 1965 biennium by twenty-two dollars for each elementary student and increasing the payments to school districts over and above that paid in the 1965 biennium by fifty-eight dollars and eight cents for each high school student and for the purpose of carrying out such legislative intent, it is hereby found that the educational cost per pupil is two hundred and twenty dollars and such cost shall be the basis of calculating grants-in-aid on a per-pupil basis as provided in sections 15-40-14 and 15-40-24.

§ 2. **Amendment.**) Section 15-40-24 of the 1965 Supplement to 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 that amount of money resulting from multiplying the factor of 1.25 times the educational cost per pupil as provided in section 15-40-12 for each of the first sixteen pupils in average daily membership and for each additional pupil in average daily membership there shall be paid .9 times the educational cost per pupil as provided in section 15-40-12 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 that amount of money resulting from multiplying the factor of 1. times the educational cost per pupil as provided in section 15-40-12 for each of the first twenty pupils in average daily membership in each classroom or for each teacher and for each additional pupil in average daily membership in each classroom or for each teacher there shall be paid .9 times the educational cost per pupil as provided in section 15-40-12 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 that amount of money resulting from multiplying the factor of .9 times the educational cost per pupil as provided in section 15-40-12 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 children.

§ 3. Provisions of Act to Remain in Effect—When.) The provisions of this Act shall become effective and remain in effect only if and so long as the provisions of Senate Bill Number 403 as approved by the Fortieth Legislative Assembly become effective or remain in effect. If the provisions of Senate Bill Number 403 as approved by the Fortieth Legislative Assembly should be suspended or terminated or should not go into effect, the provisions of this Act shall likewise be suspended or terminated or shall not go into effect and the provisions of sections 15-40-12 and 15-40-24 of the North Dakota Century Code in effect during the period of July 1, 1965, through June 30, 1967, shall supersede the provisions of this Act, and the

moneys appropriated in Senate Bill Number 1, as approved by the Fortieth Legislative Assembly, for the purpose of carrying out the provisions of this Act, shall be available and paid only in such amounts as will be required to carry out the provisions of this section. If the provisions of this Act are suspended or terminated or do not go into effect because the provisions of Senate Bill Number 403 are likewise suspended or terminated or do not go into effect, the moneys appropriated pursuant to Senate Bill Number 1 for the purpose of carrying out the provisions of this Act, shall be paid out only in such amounts as will be required for grants-in-aid under sections 15-40-12 and 15-40-24 of the North Dakota Century Code as they were in effect during the period of July 1, 1965, through June 30, 1967.

Approved March 14, 1967.

CHAPTER 143

H. B. No. 561

(Johnson (Barnes), Tollefson, Jones)

TIME FOR FOUNDATION PAYMENTS TO BE MADE

AN ACT

To amend and reenact sections 15-40-16, 15-40-19, and 15-40-29 of the North Dakota Century Code, relating to the time state and local school foundation payments shall be made, and declaring an emergency.

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

§ 1. **Amendment.)** Section 15-40-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-40-16. Application for Payments—Report of County Superintendent of Schools—Appeal.) Immediately upon the termination of the school year and in no event later than July fifteenth of each year the clerk of each district claiming payments from the county equalization fund under the provisions of this chapter shall file with the county superintendent of schools a verified claim stating the name, residence, and the average daily membership as provided for in section 15-40-14, and number of units of high school work taken by each enrolled high school student for whom payment is claimed. Such claim shall be attested to by the county superintendent of schools. The county superintendent shall investigate the validity of the claim and shall determine the residence and other qualifica-

tions of each student named in a claim filed with him. He shall certify to the superintendent of public instruction on or before September first of each year the number of enrolled students for which each district in his county is entitled to receive payment from the county equalization fund. At the same time, he shall give notice to any district the claim of which has been disallowed in whole or in part and shall state in such notice the name of any student for whom payment has been disallowed. Any district may appeal to the superintendent of public instruction from the determination of the county superintendent of schools on or before September fifteenth in the 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. Not later than December first the superintendent of public instruction shall certify to the department of accounts and purchases a list of the school districts and schools not operated by school districts entitled to payments from the county equalization fund, together with the amounts to which the several districts are entitled.

§ 2. Amendment.) Section 15-40-19 of the 1965 Supplement to the North Dakota Century Code 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.) The superintendent of public instruction shall certify to the department of accounts and purchases a list of all county equalization funds in the state together with a statement of payments equal to one-fourth of the total payments made to each respective equalization fund during the previous fiscal year and the department of accounts and purchases shall pay each county equalization fund such amounts due from the general fund, within the limits of legislative appropriation, upon warrants prepared and issued by the department and signed by the state auditor on or before September fifteenth of each year. Upon receiving the certifications of the county superintendents, 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 determine what amounts in addition to the September fifteenth payments are necessary to constitute one-half of the payments due to each county equalization fund for the current school year and 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 each

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, the amounts needed in addition to the September fifteenth payment in order to constitute fifty percent of the sum found to be due under the provisions of this chapter on or before December first, on or before February first payments equal to one-fourth of the total payments made to each respective equalization fund and the balance on or before April first.

§ 3. Amendment.) Section 15-40-29 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-40-29. Payments to Schools and School Districts.) As soon as possible after receiving per-pupil payments from the state as provided for in section 15-40-19, and not later than September twenty-fifth, December fifteenth, February fifteenth, and April fifteenth, the county superintendent of schools shall certify to the county auditor a list of the school districts or schools entitled to 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. All moneys accumulated in the county equalization fund from the county levy and all other sources shall be paid by the county auditor to the school districts or schools on or before March thirty-first and 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 payment shall be deposited in the general fund of the district or school.

§ 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 21, 1967.

CHAPTER 144

S. B. No. 224
(Pyle, Trenbeath)

SCHOOL DISTRICT BOUNDARY CHANGES AND TUITION OF
NONRESIDENT STUDENTS LIVING ON FEDERAL
INSTALLATIONS

AN ACT

To permit restricted changes in school district boundaries with retention of equivalent taxable valuation by the district involved and retention of substantially similar district boundaries, and to amend and reenact section 15-40-17.1 of the North Dakota Century Code, relating to the tuition of nonresident students who are living and employed on installations of the federal government.

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

§ 1. Restricted Changes in Boundaries—Petition—Requirements.) Notwithstanding the provisions of section 15-27-06 of the North Dakota Century Code, a resident or residents of a school district may request annexation of the property upon which his or their residence is situated to an adjacent school district by a petition for an exchange of property between the district of his residence and such adjacent district under the following conditions:

1. The signer of such petition must reside upon the property which he requests be annexed to the adjacent district.
2. There is an agreement for the exchange of property between the petitioners and the owner of the property in the adjacent district which property is to be exchanged for property of the petitioner; provided, however, that the owner of the property in the adjoining district need not reside thereon in order to enter into such agreement.
3. The school boards of the districts involved approve such exchange of property.
4. The difference in taxable valuation of the property involved in such exchange does not exceed one thousand dollars.

Except as provided in this section the other provisions of this chapter applicable to annexation proceedings generally shall apply to the proceedings in this section. The approval by the

county and state committees for the reorganization of school districts shall contain a finding that the above requirements have been met.

§ 2. **Amendment.)** Section 15-40-17.1 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-40-17.1. Payment of Tuition by Parents of Nonresident Students—Federal Payments Accepted.) 1. Notwithstanding the provisions of section 15-40-17 a school district may admit nonresident students for whom tuition payments have not been approved by the school board of their residence or the three-member county committee, if such admittance can be done without injuring or overcrowding the school to which the student will be admitted, and if tuition is paid by the parent or guardian in the amount and manner prescribed in this section. Tuition shall be equal to the actual per-pupil cost in the admitting district and shall be based on the actual cost of educating a high school student for the previous school year, less payments from county equalization funds. 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. Not less than one-half of the yearly tuition shall be paid by the parent or guardian in cash on the date of enrollment and the school board shall execute a contract in writing with the parents or guardian of the student requiring the payment of any balance of the tuition in cash on or before the first day of second semester.

2. Notwithstanding the provisions of section 15-40-17 and subsection 1 of this section, a school district may accept payments, under title 1 of Public Law 874, in lieu of tuition for a nonresident student, if the parent of such student both resides and is employed upon an installation owned by the federal government, and the school boards of the district of residence and the district where the student attends school both approve the payment of such sum in lieu of other tuition for the nonresident student.

Approved March 3, 1967.

CHAPTER 145

H. B. No. 601

(Johnson(23), Giffey, Sandness, Allen)

JOINT EDUCATIONAL ENDEAVORS

AN ACT

To amend and reenact section 15-47-32 of the 1963 Supplement to the North Dakota Century Code, relating to sharing educational programs.

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

§ 1. **Amendment.)** Section 15-47-32 of the 1963 Supplement to 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 or may contract with any other school district for sharing the costs of operating vocational education programs without regard to any other statutory tuition provision.

Approved February 24, 1967.

CHAPTER 146

H. B. No. 584

(Knudson, Sanstead, Froelich)

TEACHERS' ABSENCES

AN ACT

To amend and reenact section 15-47-35 of the North Dakota Century Code, relating to the number of days of permissible absence annually due to sickness that shall be provided in the employment contract of any teacher.

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

§ 1. **Amendment.)** Section 15-47-35 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-47-35. Ten Days' Annual Sick Absence — Cumulative.) The employment contract of any teacher, as defined in section 15-47-26 shall provide for at least ten days' permissible absence annually due to sickness, without loss in pay for the period; and shall further provide for any unused portion of such annually permissible absence to be cumulative from year to year, with a minimum accumulation of thirty days.

Approved March 4, 1967.

CHAPTER 147

SENATE BILL No. 94

(Trenbeath, Larson (Burleigh), Roen, Holand)

DISCHARGE OR FAILURE TO RENEW TEACHING
CONTRACTS

AN ACT

Relating to a statement of legislative intent in regard to the employment of teachers, and providing for conferences when requested for the purpose of explaining reasons for discharge or failure to renew teaching contracts.

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

§ 1. Legislative Intent in Employment of Teachers.) The legislative assembly, in recognition of the value of good employer-employee relationships between school boards of this state and the teachers employed in the school systems, the need to recruit and retain qualified teachers in this state, and further in recognition of the many intangibles in evaluating the performance of individual members of the teaching profession, urges that each school board of this state ensure through formally adopted policies, that channels of communication exist between the board, supervisory personnel, and teachers employed within its school system. It is the intent of the legislative assembly that in the very sensitive area of discharge of teachers for cause prior to the expiration of the term of the teachers' contracts, or in decisions not to renew the contracts of teachers, that recognition be given by school boards to damage that can result to the professional stature and reputation of such teachers, which stature and reputation were acquired only after the expenditure of substantial time and money in obtaining the necessary qualifications for such profession and in years of practicing the profession of teaching; and that in all decisions of school boards relating to discharge or refusal to renew contracts, all actions of the board be taken with consideration and dignity, giving the maximum consideration to basic fairness and decency.

§ 2. Notification of Discharge or Failure to Renew—Hearing.) The school board of any school district contemplating discharging a teacher prior to the expiration of the term of the teacher's contract, or contemplating not renewing a teacher's contract, shall notify such teacher in writing of such fact at least ten days prior to the date of discharge or final date to renew the teacher's contract. Such teacher shall be informed in writing that he may request and

appear at a meeting to be held by the school board prior to the final decision on such teacher's discharge or failure to renew such teacher's contract. The school board shall give an explanation and shall discuss at such meeting its reasons for the contemplated decision of the board in discharging such teacher or refusing to renew the teaching contract of the teacher. The meeting shall be an executive session of the board unless both the school board and the teacher requesting such meeting shall agree that it shall be open to other persons or the public. No cause of action for libel or slander shall lie for any statement expressed either orally or in writing at any executive session of a school board held for the purposes provided in this section.

Approved February 2, 1967.

CHAPTER 148

S. B. No. 100
(Redlin, Longmire)

INTERSTATE SCHOOL DISTRICT AGREEMENTS

AN ACT

To allow certain school districts, upon approval of the electorate of such districts and the superintendent of public instruction, to enter into agreements with school districts of adjoining states for the joint operation and maintenance of school facilities and activities and to levy and collect taxes for such purpose.

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

§ 1. Agreements Between School District and School District of Adjoining States—Provisions—Election—Tax Levy.) Notwithstanding any other provisions of law, subject to the provisions of this section, the board of any school district with boundaries touching upon a school district in another state may enter into a written agreement with the board of such school district for the joint operation and maintenance of school facilities and activities in either district. Such agreement shall be submitted to the superintendent of public instruction and, in approving or disapproving such agreements, shall take into consideration the enrollment, valuation of the district and future possibilities of the district and, if approved and endorsed by him, shall be submitted to the electorate of the school district at any annual election or at a special election. There shall be published by the school board in a newspaper having general circulation within the district, at least fourteen

days next preceding such election, a statement of the purpose of the election and the terms of the agreement. The question on the ballot shall be:

Shall the proposed agreement between this school district and school district number in county, state of as approved by the superintendent of public instruction by endorsement dated be executed?

YES

NO

Upon approval by the electorate the board of the school district may levy and collect taxes to carry out the provisions of the agreement pursuant to chapters 15-48, 57-16 and sections 57-15-13 and 57-15-14. In the event that a school district which has entered into an agreement with an out-of-state district is annexed or reorganized into another school district, the school board of the reorganized or annexing district shall have all powers, duties, and responsibilities of the board of the district which executed the agreement in effect at the time of the annexation or reorganization.

Approved March 3, 1967.

CHAPTER 149

H. B. No. 579

(Solberg, Reimers, Davis)

(From LRC Budget Committee)

MEDICAL CENTER EXPENDITURES

AN ACT

To amend and reenact section 15-52-09 of the North Dakota Century Code, relating to medical center expenditure of proceeds of the medical center one mill levy.

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

§ 1. Amendment.) Section 15-52-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-52-09. Expenditure of Proceeds of One Mill Levy Authorized—Limitation.) The proceeds of the one mill tax levy established by Article 60 of the Amendments to the Constitution of North Dakota, together with any other funds that may

be received by the state treasurer, from time to time, for the benefit of the North Dakota state medical center, shall be expended to establish, develop and maintain said North Dakota state medical center, as provided in this chapter, by the issuance of state warrants drawn on such funds by the director of the department of accounts and purchases in payment of vouchers approved by the state board of higher education, or its successor in authority.

Approved February 23, 1967.

CHAPTER 150

S. B. No. 105

(Longmire, Larson(32), Lowe, Larsen)

HIGHER EDUCATION REVENUE BONDS

AN ACT

To amend and reenact sections 15-55-01, 15-55-02, 15-55-02.1, 15-55-03, 15-55-04, 15-55-05, 15-55-06, 15-55-07, 15-55-09, 15-55-10 and 15-55-14 of the North Dakota Century Code, relating to the issuance of revenue bonds for the construction of buildings and other campus improvements at the state institutions of higher learning.

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

§ 1. **Amendment.)** Section 15-55-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-55-01. Board of Higher Education May Set Aside Portions of Campuses for Authorized Revenue Producing Buildings or Other Revenue Producing Campus Improvements.) Subject to and in accordance with the terms of this chapter, the state board of higher education, for and on behalf of the several institutions now and hereafter under its supervision and control, from time to time, may set aside such portions of the respective campuses of said institutions as may be necessary and suitable for the construction thereon of such revenue producing buildings or other revenue producing campus improvements as, from time to time, may be authorized by the legislative assembly of the state of North Dakota, and including additions to existing buildings or other campus improvements used for such purposes, and may construct such campus improvements and buildings or additions thereon and may equip, furnish, maintain and operate such buildings and other campus improvements.

§ 2. Amendment.) Section 15-55-02 of the 1965 Supplement to the North Dakota Century Code 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 other campus improvements, 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 or other campus improvements, 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 or other campus improvement and may make the bonds payable from the combined revenues of all buildings or other campus improvements 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 or other campus improvements so acquired.

§ 3. Amendment.) Section 15-55-02.1 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-55-02.1. Refunding Bonds.) The amount of refunding bonds which the state board of higher education may issue under this chapter shall not exceed the principal amount of the bonds to be refunded. Bonds may be refunded whether heretofore or hereafter issued, but no bonds may be refunded hereunder unless they either mature or are callable for prior redemption under their terms within fifteen years from the date of issuance of the refunding bonds, or unless the holder or holders thereof voluntarily surrender them for exchange or payment. Outstanding bonds of more than one issue or series and bonds for refunding and other bonds to construct, furnish or equip any building or addition or other campus improvement for which bonds are authorized may be combined into one issue or series and may provide for and restrict the combination of future series with the issue. Except as in this section otherwise provided, such bonds shall mature and bear interest and shall have such details and shall be authorized and issued in the manner in this chapter provided. Refunding bonds so issued may carry forward for the payment of the refunding bonds such security and sources of payment as were pledged to the payment of the bonds refunded, and a combined issue of refunding and other bonds may combine such security and sources of payment with a pledge of the revenues of buildings or other campus improvements acquired in whole or in part from the proceeds of the issue, including the security and sources of payment of any future series of refunding bonds or revenues of any building or other campus improvement acquired from the proceeds of a future series if and to the extent that provision is made for combination of future series with the issue. If refunding and other bonds are combined into one issue or series, the word "building" as used in this chapter shall be construed to refer to all the buildings or other campus improvements the revenues of which are pledged. Any bonds issued for refunding purposes may either be delivered in exchange for the outstanding bonds authorized to be refunded or may be sold at either public or private sale for not less than the par value of the bonds, or may be sold in part and exchanged in part. The sale price may exceed the principal amount of refunding bonds and the excess may be used to provide for payment of redemption premiums of the bonds to be refunded and to provide for expenses of the issuance and sale of the bonds and the retirement of the outstanding bonds, but the interest cost to maturity shall not exceed the limitation imposed by section 15-55-02. All other proceeds of the sale shall, to the extent

needed, be immediately applied to the retirement of the bonds to be refunded, or such proceeds or investments thereof shall be placed in escrow to be held and applied to the payment of the bonds to be refunded.

Such proceeds may, in the discretion or pursuant to covenant of the board, be invested in obligations of the United States of America, or in obligations fully guaranteed by the United States of America, but the obligations so purchased must have such maturities and bear such rates of interest payable at such times as will assure the existence of money sufficient to pay the bonds to be refunded when due or when redeemed pursuant to call for redemption, together with interest and redemption premiums, if any. The proceeds or obligations so purchased shall be deposited in trust with the trustee for the refunded bonds, or with the banking corporation or association which is the paying agent for the refunded bonds, or with the state treasurer, to be held, liquidated and the proceeds of such liquidation paid out for the payment of the bonds to be refunded and interest and redemption premiums thereon as such refunded bonds become due or subject to redemption under call for redemption previously made, or upon earlier voluntary surrender thereof with the consent of the board. The determination of the board in issuing refunding bonds that the issuance and sale of refunding bonds is necessary for the best interests of the institution and that the limitations herein imposed upon the issuance of refunding bonds have been met shall be conclusive in the absence of fraud or arbitrary and gross abuse of discretion.

§ 4. Amendment.) Section 15-55-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-55-03. Bonds Are Special Obligations and Board May Insert Special Provisions in Bonds.) The bonds issued under the provisions of this chapter shall not be an indebtedness of the state of North Dakota nor of the institution for which they are issued nor of the state board of higher education thereof, nor of the individual members, officers or agents thereof nor shall any building or other campus improvement or the land upon which it is situated, or any part thereof be security for or be levied upon or sold for the payment of said bonds, but the said bonds shall be special obligations payable solely from the revenues to be derived from the operation of the building or other campus improvement, and the board is authorized and directed to pledge all or any part of such revenues to the payment of principal and interest on the bonds. In order to secure the prompt payment of such principal and interest and the proper application of the revenues

pledged thereto the board is authorized by appropriate provisions in the resolution or resolutions authorizing the bonds:

1. To covenant as to the use and disposition of the proceeds of the sale of such bonds;
2. To covenant as to the operation of the building or other campus improvement and the collection and disposition of the revenues derived from such operation;
3. To covenant as to the rights, liabilities, powers and duties arising from the breach of any covenant or agreement into which it may enter in authorizing and issuing the bonds;
4. To covenant and agree to carry such insurance on the building or other campus improvement, and the use and occupancy thereof as may be considered desirable and, in its discretion, to provide that the cost of such insurance shall be considered as part of the expense of operating the building or other campus improvement;
5. To vest in a trustee or trustees for the bondholders the right to receive all or any part of the income and revenues pledged and assigned to or for the benefit of the holder or holders of bonds issued hereunder and to hold, apply and dispose of the same, and the right to enforce any covenant made to secure the bonds and to execute and deliver a trust agreement or agreements which may set forth the powers and duties and the remedies available to such trustee or trustees and may limit the liabilities thereof and prescribe the terms and conditions upon which such trustee or trustees or the holder or holders of the bonds in any specified amount or percentage may exercise such rights and enforce any or all such covenants and resort to such remedies as may be appropriate;
6. To fix rents, charges and fees to be imposed in connection with and for the use of the building or other campus improvement and the facilities supplied thereby, which rents, charges and fees shall be considered to be income and revenues derived from the operation of the building or campus improvement, and are hereby expressly required to be fully sufficient to assure the prompt payment of principal and interest on the bonds as each becomes due, and to make and enforce such rules and regulations with reference to the use of the building or campus improvement, and with reference to requiring any class or classes of students to use the buildings or other campus improvements as it may deem desirable

- for the welfare of the institutions and its students or for the accomplishments of the purposes of this chapter;
7. To covenant to maintain a maximum percentage of the occupancy of the building or other campus improvement;
 8. To covenant against the issuance of any other obligations payable from the revenues to be derived from the building or other campus improvement; and
 9. To make covenants other than and in addition to those herein expressly mentioned of such character as may be considered necessary or advisable to affect the purposes of this chapter.

All such agreements and covenants entered into by the board shall be enforceable by appropriate action or suit at law or in equity, which may be brought by any holder or holders of bonds issued hereunder.

§ 5. Amendment.) Section 15-55-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-55-04. Board May Enter into Contract with Federal Agencies.) The board may enter into any agreements or contracts with the United States of America or any agency or instrumentality thereof which it may consider advisable or necessary in order to obtain a grant of funds or other aid to be used in connection with the proceeds of the bonds in paying the cost of the construction, furnishing and equipment of the building or other campus improvement.

§ 6. Amendment.) Section 15-55-05 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-55-05. Deposit and Use of Proceeds of Bonds—Authorizing Issuing of Warrants—Contracts.) The proceeds from the sale of the bonds herein authorized shall be deposited to the credit of the board and kept in a separate fund in the state treasury, in the bank of North Dakota or in a bank which is a duly designated depository for state funds and is a member of the federal deposit insurance corporation. Provided that when such funds are deposited in a bank other than the bank of North Dakota or a bank which is not a duly designated depository for the state funds, such bank shall be required to pledge as security for such deposit, securities in an amount equal to the sum by which such deposit exceeds the amount of federal deposit insurance corporation insurance. Securities which shall be eligible for such pledge shall be notes or bonds

issued by the United States government, its agencies or instrumentalities, all bonds and notes guaranteed by the United States government, federal land bank bonds or bonds issued by any state of the United States. In lieu of the deposit of such securities, a surety bond may be accepted from the bank designated as a depository in a sum equal to the amount of funds such bank may receive in excess of the amount guaranteed by the federal deposit insurance corporation. Such proceeds shall be used solely for the purpose for which the bonds are authorized except that the board may invest such funds in direct obligations of, or obligations the principal of and interest on which are guaranteed by, the United States of America, or obligations of the state of North Dakota or of any municipality as defined in section 21-03-01 prior to or during building or other campus improvement construction except to the extent such investment is prohibited or restricted by any covenant made with or for the benefit of bondholders. The board is authorized to make all contracts and to cause the execution of all instruments which in its discretion may be deemed necessary or advisable to provide for the construction, furnishing and equipment of the building or other campus improvement or for the sale of the bonds or for interim financing deemed necessary or advisable pending the sale of the bonds and pledging the proceeds of the bonds. The state auditor is hereby authorized and directed to issue warrants upon the state treasury against such funds, if any, deposited by the board in the state treasury for such amounts as he may from time to time find to be due upon audited itemized estimates and claims which bear the approval of the officials designated by the board for such purpose.

§ 7. **Amendment.)** Section 15-55-06 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-55-06. Designations of Agent and Depositories—Disposition and Use of Revenues—Funds Created.) All income and revenues derived from the operation of any building or other campus improvement financed or the revenues of which are pledged in the manner provided in this chapter shall be collected by such officer or agent of the institution where the building or other campus improvement is located as the state board of higher education from time to time, may designate, and shall be accounted for by him, deposited and remitted as in this section provided. The said board, in its resolution authorizing the bonds or in the trust agreement or agreements executed and delivered by the board, shall provide for the disposition of and accounting for all such revenues by such officer or agent, including the designation of a depository or depositories, the payment of expenses of operation and main-

tenance, the remittance of revenues to the paying agent designated in the bonds for payment of principal of and interest on the bonds when due, and the investment and disposition of revenues not immediately required for payment of expenses, principal and interest. The board may designate as a depository for such revenues and funds either the state treasury or the bank of North Dakota or the trustee under the trust agreement for the bondholders or a bank which is a duly designated depository for state funds or as provided in section 15-55-05. The said board may in its resolution authorizing the bonds or in the trust agreement or agreements executed and delivered by the board provide for an expense fund to be retained by the collecting officer for the purpose of paying and may direct him to pay the accrued or anticipated expenses of operation and maintenance of the building or campus improvement, and if the board so directs or if such expense fund is so provided, the collecting officer may pay such expenses as so directed by the board or from said fund. The funds required to be remitted to the state treasurer, if any, and any funds derived from revenues pledged to the bondholders shall be held by him or in the depository for such funds designated by the board in a special fund or funds, to be applied solely to the payment of the principal and interest on said bonds, and the establishment of a reserve for future payments until all of the said bonds and interest thereon have been fully paid, provided that to the extent not prohibited or restricted by any covenant made with or for the benefit of the bondholders, the board may invest any such funds in direct obligations of, or obligations the principal of and interest on which are guaranteed by, the United States of America, or obligations of the state of North Dakota or of any municipality as defined in section 21-03-01 and may devote revenues not currently required for payment of principal and interest, for the creation or maintenance of a debt service reserve, or for expenses of operation and maintenance to such purposes as the board may from time to time designate, including replacing the furnishings and equipment of such building or buildings or campus improvements and improving said building or buildings or campus improvements. As principal and interest become due, the state auditor, not less than fifteen days prior to the payment dates, shall issue warrants upon the treasurer for the amount of such payment coming due, and the state treasurer shall make payment from any such fund of the amounts due.

§ 8. **Amendment.**) Section 15-55-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-55-07. Endorsement of Bonds—Attorney General to Approve—Incontestable—Exception.) All bonds issued under the provisions of this chapter, shall have endorsed thereon, a statement to the effect that the same do not constitute an obligation of the state of North Dakota, the state board of higher education, nor the individual members, officers or agents thereof, nor of the institution upon the campus of which the building or campus improvement is located, and that the said bonds are payable solely and only out of the revenues to be produced and received from the operation of said building or campus improvement. Such bonds shall be submitted to the attorney general of North Dakota for his examination and when such bonds have been examined and certified as legal obligations by the attorney general in accordance with such requirements as he may make, shall be incontestable in any court in this state unless suit thereon shall be brought in a court having jurisdiction thereof within thirty days from the date of such approval. Bonds so approved by the attorney general shall be prima facie valid and binding obligations according to their terms and the only defense which may be offered thereto in any suit instituted after such thirty day period shall have expired shall be forgery, fraud, or violation of the Constitution.

§ 9. Amendment.) Section 15-55-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-55-09. Construction of Chapter Not To Permit Obligation of State.) Nothing in this chapter shall be construed to authorize or permit the state board of higher education, or any officer or agency of the state, to create any state debts, or to incur any obligations of any kind or nature, except as shall be payable solely and only from the special funds to be created from the revenues of the building or buildings or other campus improvements erected or constructed under the terms and provisions of this chapter, nor shall the state of North Dakota or any funds or moneys of this state other than the special funds derived from the income of said building or buildings or campus improvements respectively ever be deemed obligated for the payment of the said bonds or any part thereof.

§ 10. Amendment.) Section 15-55-10 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-55-10. Limitation on Buildings and Other Campus Improvements and Issuance of Bonds.) No building or buildings or other campus improvements shall be erected or constructed,

and no bonds shall be issued for the payment of the cost of any building or buildings or other campus improvements under the terms of this chapter, save and except for such specified buildings or other campus improvements as may be from time to time designated and authorized by legislative act, nor shall any such building or buildings or other campus improvements 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 or other campus improvement. 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 or other campus improvements designated and authorized by legislative act.

§ 11. **Amendment.)** Section 15-55-14 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-55-14. Rental Income from Unencumbered Revenue Producing Buildings or Other Campus Improvements May Be Applied to Bond Retirement.) The state board of higher education, when issuing bonds under the provisions of this chapter and the powers herein granted, shall have additional powers as follows:

1. When the state board of higher education has issued bonds as provided in this chapter for the purpose of securing funds for all or part of the cost of construction, equipment, and furnishing of any new revenue producing building or other campus improvement for any of the state-supported institutions of higher learning of the state of North Dakota, or for the purpose of refunding any such bonds, said board is hereby authorized to cover, from time to time, into the interest and principal payment fund for bonds issued, or into a fund for operation and maintenance of the building or other campus improvement so financed or into a fund for repair or replacement of the building or other campus improvement, its equipment and furnishings, the rental or income from revenue producing buildings or other campus improvements which are not encumbered or impressed with any lien and which are located upon the campuses of such institutions.
2. In case of destruction of such revenue producing buildings or campus improvements by fire, tornado, cyclone, or other cause, the proceeds from insurance on such

revenue producing buildings or campus improvements shall be covered into the bond payment fund for the payment of bonds issued under this chapter unless such insurance may be and is used for the repair or replacement of the building or campus improvement, its equipment and furnishings.

3. The rental income from said revenue producing buildings or other revenue producing campus improvements, and the proceeds of insurance thereon may be irrevocably pledged to the payment of the principal and interest of the bonds issued as in this chapter provided, or to the expenses of operation and maintenance or repair or replacement of the building or campus improvement, its equipment and furnishings.
4. The bonds issued under the provisions of this chapter shall not be an indebtedness or obligation of the state of North Dakota or of any of the state institutions nor of any board, bureau, or officer of the state of North Dakota, but such bonds shall be payable solely out of income and revenue as provided in this chapter.

The rental income from the revenue producing buildings or other revenue producing campus improvements, as defined herein, of any educational institutions of higher learning of the state shall be covered only into a fund for a revenue producing building or other revenue producing campus improvement for such educational institution and not to any other institution.

Approved March 15, 1967.

CHAPTER 151

S. B. No. 78
(Wenstrom)

DORMITORY BOND ISSUES OF JUNIOR COLLEGES
AND EDUCATION CENTERS

AN ACT

To amend and reenact section 15-55-18 of the 1965 Supplement to the North Dakota Century Code, relating to dormitory bond issues for junior colleges and educational centers.

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

§ 1. Amendment.) Section 15-55-18 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-55-18. Dormitory Bond Issue for Junior Colleges and Educational Centers.) The board of education of any school district having a junior college or off campus educational center as provided in chapter 15-18 is hereby authorized and empowered to issue and sell tax exempt bonds for the purpose of constructing revenue producing dormitories for its junior college or off campus educational center students, the total principal amount of such bonds not to exceed \$1,000,000.00. The bonds authorized by this section shall be retired solely from revenues of the building and facilities constructed under the provisions of this section, and such bonds shall never become a general obligation of the school district, or the state of North Dakota.

Approved February 24, 1967.

CHAPTER 152

S. B. No. 179

(Melland, Trenbeath, Roen, Larson(32), Decker, Ringsak, Holand)

EDUCATION OF HANDICAPPED

AN ACT

To amend and reenact section 15-59-07 of the North Dakota Century Code, relating to the education of physically handicapped.

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

§ 1. Amendment.) Section 15-59-07 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-59-07. Education of Physically Handicapped—Contract.) If any school district in this state has any elementary or high school student who because of his physical handicap is unable to attend the public schools in the district, such school district shall contract with any accredited private nonsectarian non-profit corporation within or without the state which has proper facilities for the education of such student, if there are no public schools in the state with the necessary facilities which will accept such student. Prior to the time any school district enters into a contract with any private nonsectarian nonprofit corporation for the education of any physically handicapped student the curriculum provided by such school and the contract shall be approved by the superintendent of public instruction. The contract shall provide that such school district agrees to pay to the private nonsectarian nonprofit corporation as part of the cost of educating such student an amount for the school year equal to three times the county average per-pupil elementary or high school cost depending on whether enrollment would be in grade or high school department, in the county in which the contracting district is located. If the attendance of such student at such school is operated for less than a school year, then the contract shall provide for such lesser amount prorated on a monthly basis. For the purpose of this section, any student contracted for to attend a school as herein provided shall be considered as enrolled in the contracting district and the district shall be entitled to the per-pupil payment out of the county equalization fund the same as other regularly enrolled students in the district.

Approved March 13, 1967.

CHAPTER 153

S. B. No. 294
(Larson, Berube)

INDIAN SCHOLARSHIPS

AN ACT

To amend and reenact sections 15-63-03 and 15-63-05 of the North Dakota Century Code, relating to the number and nature of Indian scholarships and the scholarship payments thereunder.

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

§ 1. **Amendment.)** Section 15-63-03 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-63-03. Number and Nature of Scholarships.) The state board for Indian scholarships shall provide five 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.

§ 2. **Amendment.)** Section 15-63-05 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-63-05. 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 four hundred and twenty dollars per quarter for three quarters, or six hundred and thirty 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.

Approved March 1, 1967.

CHAPTER 154

S. B. No. 406
(Committee on Delayed Bills)

COMPACT FOR EDUCATION

AN ACT

To provide for an interstate compact to provide for and maintain cooperation and understanding among executive, legislative, professional educational, and lay leadership upon educational problems on a nationwide basis and at the state and local levels, and providing an appropriation.

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

§ 1. **Compact for Education.**) The compact for education is hereby entered into and enacted into law with all jurisdictions legally joining therein, in the form substantially as follows:

Compact for Education

ARTICLE I

Purpose and Policy

A. It is the purpose of this compact to:

1. Establish and maintain close cooperation and understanding among executive, legislative, professional educational, and lay leadership on a nationwide basis at the state and local levels.

2. Provide a forum for the discussion, development, crystallization, and recommendation of public policy alternatives in the field of education.

3. Provide a clearing house of information on matters relating to educational problems and how they are being met in different places throughout the nation, so that the executive and legislative branches of state government and of local communities may have ready access to the experience and record of the entire country, and so that both lay and professional groups in the field of education may have additional avenues for the sharing of experience and the interchange of ideas in the formation of public policy in education.

4. Facilitate the improvement of state and local educational systems so that all of them will be able to meet

adequate and desirable goals in a society which requires continuous qualitative and quantitative advance in educational opportunities, methods, and facilities.

- B. It is the policy of this compact to encourage and promote local and state initiative in the development, maintenance, improvement, and administration of educational systems and institutions in a manner which will accord with the needs and advantages of diversity among localities and states.
- C. The party states recognize that each of them has an interest in the quality and quantity of education furnished in each of the other states, as well as in the excellence of its own educational systems and institutions, because of the highly mobile character of individuals within the nation, and because the products and services contributing to the health, welfare, and economic advancement of each state are supplied in significant part by persons educated in other states.

ARTICLE II

State Defined

As used in this compact, "state" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

ARTICLE III

The Commission

- A. The education commission of the states, hereinafter called "the commission", is hereby established. The commission shall consist of seven members representing each party state. One of such members shall be the governor; two shall be members of the state legislature selected by its respective houses and serving in such manner as the legislature may determine; and four shall be appointed by and serve at the pleasure of the governor, unless the laws of the state otherwise provide. If the laws of a state prevent legislators from serving on the commission, six members shall be appointed and serve at the pleasure of the governor, unless the laws of the state otherwise provide. In addition to any other principles or requirements which a state may establish for the appointment and service of its members of the commission, the guiding principle for the composition of the membership on the commission from each party state shall be that the members representing such state shall, by virtue of their training, experience,

knowledge, or affiliations be in a position collectively to reflect broadly the interests of the state government, higher education, the state education system, local education, lay and professional, public and non-public educational leadership. Of those appointees, one shall be the head of a state agency or institution, designated by the governor, having responsibility for one or more programs of public education. In addition to the members of the commission representing the party states, there may be not to exceed ten non-voting commissioners selected by the steering committee for terms of one year. Such commissioners shall represent leading national organizations of professional educators or persons concerned with educational administration.

- B. The members of the commission shall be entitled to one vote each on the commission. No action of the commission shall be binding unless taken at a meeting at which a majority of the total number of votes on the commission are cast in favor thereof. Action of the commission shall be only at a meeting at which a majority of the commissioners are present. The commission shall meet at least once a year. In its bylaws, and subject to such directions and limitations as may be contained therein, the commission may delegate the exercise of any of its powers to the steering committee or the executive director, except for the power to approve budgets or requests for appropriations, the power to make policy recommendations pursuant to article IV and adoption of the annual report pursuant to article III (j).
- C. The commission shall have a seal.
- D. The commission shall elect annually, from among its members, a chairman, who shall be a governor, a vice chairman and a treasurer. The commission shall provide for the appointment of an executive director. Such executive director shall serve at the pleasure of the commission, and together with the treasurer and such other personnel as the commission may deem appropriate shall be bonded in such amount as the commission shall determine. The executive director shall be secretary.
- E. Irrespective of the civil service, personnel or other merit system laws of any of the party states, the executive director subject to the approval of the steering committee shall appoint, remove or discharge such personnel as may be necessary for the performance of the functions of the commission, and shall fix the duties and compensation of such personnel. The commission in its bylaws shall provide for the personnel policies and programs of the commission.

- F. The commission may borrow, accept or contract for the services of personnel from any party jurisdiction, the United States, or any subdivision or agency of the aforementioned governments, or from any agency of two or more of the party jurisdictions or their subdivisions.
- G. The commission may accept for any of its purposes and functions under this compact any and all donations, and grants of money, equipment, supplies, materials, and services, conditional or otherwise, from any state, the United States, or any other governmental agency, or from any person, firm, association, foundation, or corporation, and may receive, utilize, and dispose of the same. Any donation or grant accepted by the commission pursuant to this paragraph or services borrowed pursuant to paragraph (f) of this article shall be reported in the annual report of the commission. Such report shall include the nature, amount and conditions, if any, of the donation, grant, or services borrowed, and the identity of the donor or lender.
- H. The commission may establish and maintain such facilities as may be necessary for the transacting of its business. The commission may acquire, hold, and convey real and personal property and any interest therein.
- I. The commission shall adopt bylaws for the conduct of its business and shall have the power to amend and rescind these bylaws. The commission shall publish its bylaws in convenient form and shall file a copy thereof and a copy of any amendment thereto, with the appropriate agency or officer in each of the party states.
- J. The commission annually shall make to the governor and legislature of each party state a report covering the activities of the commission for the preceding year. The commission may make such additional reports as it may deem desirable.

ARTICLE IV

Powers

In addition to authority conferred on the commission by other provisions of the compact, the commission shall have authority to:

1. Collect, correlate, analyze, and interpret information and data concerning educational needs and resources.
2. Encourage and foster research in all aspects of education, but with special reference to the desirable scope of instruction, organization, administration, and instruc-

- tional methods and standards employed or suitable for employment in public educational systems.
3. Develop proposals for adequate financing of education as a whole and at each of its many levels.
 4. Conduct or participate in research of the types referred to in this article in any instance where the commission finds that such research is necessary for the advancement of the purposes and policies of this compact, utilizing fully the resources of national associations, regional compact organizations for higher education, and other agencies and institutions, both public and private.
 5. Formulate suggested policies and plans for the improvement of public education as a whole, or for any segment thereof, and make recommendations with respect thereto available to the appropriate governmental units, agencies, and public officials.
 6. Do such other things as may be necessary or incidental to the administration of any of its authority or functions pursuant to this compact.

ARTICLE V

Cooperation with Federal Government

- A. If the laws of the United States specifically so provide, or if administrative provision is made therefor within the federal government, the United States may be represented on the commission by not to exceed ten representatives. Any such representative or representatives of the United States shall be appointed and serve in such manner as may be provided by or pursuant to federal law, and may be drawn from any one or more branches of the federal government, but no such representative shall have a vote on the commission.
- B. The commission may provide information and make recommendations to any executive or legislative agency or officer of the federal government concerning the common educational policies of the states, and may advise with any such agencies or officers concerning any matter of mutual interest.

ARTICLE VI

Committees

- A. To assist in the expeditious conduct of its business when the full commission is not meeting, the commission shall elect a steering committee of thirty-two members which,

subject to the provisions of this compact and consistent with the policies of the commission, shall be constituted and function as provided in the bylaws of the commission. One-fourth of the voting membership of the steering committee shall consist of governors, one-fourth shall consist of legislators, and the remainder shall consist of other members of the commission. A federal representative on the commission may serve with the steering committee, but without vote. The voting members of the steering committee shall serve for terms of two years, except that members elected to the first steering committee of the commission shall be elected as follows: sixteen for one year and sixteen for two years. The chairman, vice chairman, and treasurer of the commission shall be members of the steering committee and, anything in this paragraph to the contrary notwithstanding, shall serve during their continuance in these offices. Vacancies in the steering committee shall not affect its authority to act, but the commission at its next regularly ensuing meeting following the occurrence of any vacancy shall fill it for the unexpired term. No person shall serve more than two terms as a member of the steering committee; provided that service for a partial term of one year or less shall not be counted toward the two-term limitation.

- B. The commission may establish advisory and technical committees composed of state, local, and federal officials, and private persons to advise it with respect to any one or more of its functions. Any advisory or technical committee may, on request of the states concerned, be established to consider any matter of special concern to two or more of the party states.
- C. The commission may establish such additional committees as its bylaws may provide.

ARTICLE VII

Finance

- A. The commission shall advise the governor or designated officer or officers of each party state of its budget and estimated expenditures for such period as may be required by the laws of that party state. Each of the commission's budgets of estimated expenditures shall contain specific recommendations of the amount or amounts to be appropriated by each of the party states.
- B. The total amount of appropriation requests under any budget shall be apportioned among the party states. In making such apportionment, the commission shall devise

- and employ a formula which takes equitable account of the populations and per-capita income levels of the party states.
- C. The commission shall not pledge the credit of any party states. The commission may meet any of its obligations in whole or in part with funds available to it pursuant to article III (g) of this compact, provided that the commission takes specific action setting aside such funds prior to incurring an obligation to be met in whole or in part in such manner. Except where the commission makes use of funds available to it pursuant to article III (g) thereof, the commission shall not incur any obligation prior to the allotment of funds by the party states adequate to meet the same.
 - D. The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established by its bylaws. However, all receipts and disbursements of funds handled by the commission shall be audited yearly by a qualified public accountant, and the report of the audit shall be included in and become part of the annual reports of the commission.
 - E. The accounts of the commission shall be open at any reasonable time for inspection by duly constituted officers of the party states and by any persons authorized by the commission.
 - F. Nothing contained herein shall be construed to prevent commission compliance with laws relating to audit or inspection of accounts by or on behalf of any government contributing to the support of the commission.

ARTICLE VIII

Eligible Parties; Entry Into and Withdrawal

- A. This compact shall have as eligible parties all states, territories, and possessions of the United States, the District of Columbia, and the Commonwealth of Puerto Rico. In respect of any such jurisdiction not having a governor, the term "governor", as used in this compact, shall mean the closest equivalent official and such jurisdiction.
- B. Any state or other eligible jurisdiction may enter into this compact and it shall become binding thereon when it has adopted the same: Provided that in order to enter into initial effect, adoption by at least ten eligible party jurisdictions shall be required.

- C. Adoption of the compact may be either by enactment thereof or by adherence thereto by the governor; provided that in the absence of enactment, adherence by the governor shall be sufficient to make his state a party only until December 31, 1967. During any period when a state is participating in this compact through gubernatorial action, the governor shall appoint those persons who, in addition to himself, shall serve as the members of the commission from his state, and shall provide to the commission an equitable share of the financial support of the commission from any source available to him.
- D. Except for a withdrawal effective on December 31, 1967, in accordance with paragraph C of this article, any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until one year after the governor of the withdrawing state has given notice in writing of the withdrawal to the governors of all other party states. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal.

ARTICLE IX

Construction and Severability

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 state or of the United States, or the application 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 participating therein, the compact shall remain in full force and effect as to the state affected as to all severable matters.

§ 2. Bylaws To Be Filed.) Pursuant to article III (i) of the compact, the commission shall file a copy of its bylaws and any amendment thereto with the office of the secretary of state.

§ 3. Appropriation.) There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$11,250.00 or so much thereof as may be necessary, to carry out the provisions of this Act and for the payment of the proper share of costs of operation of the compact allocated to North Dakota for the biennium beginning July 1, 1967, and ending June 30, 1969,

Approved March 14, 1967.

CHAPTER 155

S. B. No. 69

(Coughlin, Larsen, Freed, Litten, Larson (Burleigh), Stafne,
(Sorlie, Luick, Decker, Butler)

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 or purchasing revenue producing buildings and other campus improvements 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.

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 and other campus improvements 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. Student dormitories and food service.....\$3,000,000
 - b. Central food service building..... 450,000
 - c. Parking lots..... 100,000

2. North Dakota state university, Fargo,
North Dakota
 - a. Married student housing..... 2,000,000
 - b. Student dormitories..... 2,500,000
 - c. Memorial union addition..... 1,200,000

3. Minot state college, Minot, North Dakota
 - a. Student union addition..... 150,000

4. Valley City state college, Valley City,
North Dakota
 - a. Student dormitory and food center..... 975,000
 - b. Addition to student center..... 600,000

- 5. Dickinson state college, Dickinson,
North Dakota
 - a. Student dormitory..... 750,000
 - b. Married student housing..... 300,000

- 6. North Dakota state school of science,
Wahpeton, North Dakota
 - a. Student dormitories..... 3,225,000
 - b. Food service building..... 750,000
 - c. Married student housing..... 350,000

- 7. North Dakota state school of forestry,
Bottineau, North Dakota
 - a. Student dormitory..... 100,000

- 8. University of North Dakota - Ellendale
branch, Ellendale, North Dakota
 - a. Student dormitory and food service..... 1,000,000

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 bonds shall be placed in sinking funds for the retirement of the bonds authorized in section 1.

Approved February 21, 1967.

CHAPTER 156

H. B. No. 846

(Ferguson, Erickson(26), Jenkins, Bier)

4-H CENTER

AN ACT

Authorizing the state board of higher education to enter into an agreement with the North Dakota 4-H club foundation, incorporated, to allow such foundation to build a 4-H center on lands of the North Dakota state university of agriculture and applied science, with title to such center passing to the state upon completion of the construction of the building.

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

§ 1. Board of Higher Education Authorized to Allow Construction of a 4-H Center by the North Dakota 4-H Club Foundation, Incorporated, on the Campus of North Dakota State University of Agriculture and Applied Science—Terms of Agreement.) The state board of higher education is hereby authorized to enter into an agreement with the North Dakota 4-H club foundation, incorporated, a nonprofit North Dakota corporation, to authorize such foundation to construct a 4-H educational center building on the campus of the North Dakota state university of agriculture and applied science. The board shall select the building site for such center; approve the plans for the construction of the building; and require in such agreement that upon completion of the building such foundation shall pass title to the building to the state of North Dakota free and clear of any type of liens. Upon passage of the title of the building to the state, the North Dakota state university of agriculture and applied science shall assume the responsibility for the administration, operation, and maintenance of such center. Such building shall be used primarily for 4-H programs and activities but may also be used for institutional purposes not inconsistent with 4-H programs and activities. Provided, however, the state board of higher education shall not allow the construction of such building until it has determined that the North Dakota 4-H club foundation, incorporated, has sufficient funds to build and complete such building.

Approved March 10, 1967.

CHAPTER 157

S. B. No. 350
(Geving)

COLLEGE BUILDING FUND APPROPRIATIONS

AN ACT

To provide for a conditional transfer of funds to the college building fund, and making an appropriation from the college building fund for the construction of college buildings.

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

§ 1. Transfer of Funds to College Building Fund and Administration Thereof.) Commencing July 1, 1967, and at the same date each year thereafter until the sum of \$8,843,153.00 shall have been transferred to the college building fund, the director of the department of accounts and purchases shall determine the cash balance in the general fund of the state. In the event the cash balance in the general fund as of the close of business on the previous thirtieth day of June shall exceed twelve million dollars, the director of accounts and purchases shall direct the state treasurer to transfer to the college building fund the sum of two million dollars. Such funds shall be expended by the board of higher education for the construction, reconstruction, and equipping of buildings at state-operated institutions of higher learning in accordance with specific appropriations to be made by the legislative assembly.

§ 2. Appropriations.) There is hereby appropriated out of any moneys in the college building fund the sum of \$8,843,153.00, or so much thereof as may be available in such fund, and from federal and private sources the sum of \$6,674,076.00 for the construction, reconstruction, and equipping of buildings and facilities at state-operated institutions of higher learning for purposes as follows and within the limitations of the costs hereafter stated:

Name of Institution and Type of Facility	State Funds	Federal and Private Source Funds	Total Funds
State college located at the city of Mayville in the county of Traill—A classroom building.....	\$ 320,000.00	\$ 155,000.00	\$ 475,000.00
North Dakota state university of agriculture and applied science located at the city of Fargo in the county of Cass—A biological science building.....	274,153.00	137,076.00	411,229.00
University of North Dakota and school of mines located at the city of Grand Forks in the county of Grand Forks—A classroom building.....	1,000,000.00	500,000.00	1,500,000.00
North Dakota state university of agriculture and applied science located at the city of Fargo in the county of Cass—A physical education classroom building.....	1,750,000.00	1,500,000.00	3,250,000.00
School of science located at the city of Wahpeton in the county of Richland—A combination library-classroom building	420,000.00	280,000.00	700,000.00
University of North Dakota and school of mines located at the city of Grand Forks in the county of Grand Forks—An auditorium building.....	1,000,000.00	2,000,000.00	3,000,000.00
State college located at the city of Valley City in the county of Barnes—A science building.....	500,000.00	250,000.00	750,000.00
State college located at the city of Dickinson in the county of Stark—Scott gymnasium renovation and addition and stadium.....	550,000.00	150,000.00	700,000.00
University of North Dakota and school of mines located at the city of Grand Forks in the county of Grand Forks—Engineering building	672,000.00	928,000.00	1,600,000.00

Name of Institution and Type of Facility	State Funds	Federal and Private Source Funds	Total Funds
University of North Dakota and school of mines located at the city of Grand Forks in the county of Grand Forks—Law building.....	536,000.00	264,000.00	800,000.00
State college located at the city of Minot in the county of Ward—Classroom building.....	400,000.00	200,000.00	600,000.00
School of forestry located at the city of Bottineau in the county of Bottineau—Science building.....	240,000.00	160,000.00	400,000.00
North Dakota state university of agriculture and applied science located at the city of Fargo in the county of Cass—Addition to maintenance building.....	225,000.00	.....	225,000.00
State college located at the city of Valley City in the county of Barnes—Service and storage building.....	36,000.00	.....	36,000.00
University of North Dakota and school of mines located at the city of Grand Forks in the county of Grand Forks—Service building.....	450,000.00	.....	450,000.00
School of science located at the city of Wahpeton in the county of Richland—Maintenance—storage building.....	150,000.00	.....	150,000.00
State college located at the city of Dickinson in the county of Stark—Library addition.....	300,000.00	150,000.00	450,000.00
School of forestry located at the city of Bottineau in the county of Bottineau — Workshop — garage-storage building.....	20,000.00	.....	20,000.00

The construction of a specific building or facility shall not be commenced until the amount of funds indicated for such building or facility in the column "Federal and Private Source Funds" has been either actually received or irrevocably promised from such sources for such facilities except that should the funds received or to be received from the federal and private fund sources be less than the amount indicated in the column "Federal and Private Source Funds", the board of higher education shall determine whether the facility should be constructed, basing its determination on whether the facility can, if constructed at a lower cost, reasonably meet the original purposes of the authorized facility. In no event shall any facility exceed the cost indicated in the column "Total Funds" except to the extent funds from the federal and private fund sources exceed the amount authorized for the specific building or facility. The order of appearance of the facilities set forth above is not necessarily the order of priority for the construction of such facilities and the board of higher education, in its discretion, may direct the construction of such buildings and facilities in a different order or priority than that listed in this section. The state funds herein appropriated shall remain available for expenditure for the purposes specified until the buildings and facilities herein authorized shall be constructed, except that upon the completion of the construction and equipping of any specific building or facility, any unexpended state funds specifically appropriated and designated herein for such building or facility shall revert to the college building fund.

Approved March 15, 1967.

ELECTIONS

CHAPTER 158

H. B. No. 533

(Brown, Erickson(4), Hilleboe, Johnson(39), Lang, Mueller)

(From LRC Study)

ELECTION LAW REVISION

AN ACT

To create and enact sections 16-04-02.1 and 40-09-17 of the North Dakota Century Code, providing a certificate of endorsement form, and providing for restrictions for members of the board of city commissioners, to provide that certain questions relating to financing political subdivisions shall not be submitted to the electorate for a specified time after the failure to approve such measures, to provide that political parties shall reorganize on a legislative district basis in 1967, 1968, and every two years thereafter, and to amend and reenact sections 1-01-50, 5-01-13, subsection 6 of section 11-11-14, sections 15-28-05, 15-28-06, 15-28-09, 16-01-02, 16-01-07, 16-03-01, 16-03-02, 16-04-02, 16-04-03, 16-04-04, 16-04-05, 16-04-06, 16-04-08, 16-04-11, 16-04-13, 16-04-15.1, 16-04-17, subsection 4 of section 16-04-20, sections 16-04-21, 16-04-26, 16-04-29, 16-05-03, 16-05-04, 16-05-05, 16-06-02, 16-06-04, 16-07-01, 16-07-02, 16-07-04, 16-07-09, 16-07-12, 16-08-04, 16-08-05, 16-08-07, 16-09-01, 16-09-02, 16-09-03, 16-09-05, 16-09-06, 16-09-07, 16-10-01, 16-10-02, 16-10-04, 16-10-06, 16-10-08, 16-10-17, 16-11-05, 16-11-07, 16-11-09, 16-11-11, 16-11-12, 16-12-04, 16-12-10, 16-12-14, 16-13-07, 16-13-13, 16-13-14, 16-13-16, 16-13-20, 16-13-21, 16-13-24, 16-13-33, 16-16-08, 16-17-02, 16-17-06, 16-17-08, 16-17-09, 16-17-10, 16-17-11, 16-17-13, 16-17-15, 16-17-16, subsection 3 of section 16-18-01, sections 16-18-03, 16-18-05, 16-18-06, 16-18-09, 16-18-14, 16-18-17, 16-18-18, 16-18-19, 16-20-04, 16-20-08, 16-20-17.1, 16-20-19, 16-21-03, 40-02-07, 40-02-11, 40-04-02, 40-08-08, 40-08-09, 40-12-08, 40-21-02, 40-21-07, 40-21-09, 40-21-12, 40-52-04, subsection 5 of section 54-01-26, and section 58-04-05, all of the North Dakota Century Code, relating to voting and elections and election petitions, polling places, officials, publications, certificates of endorsement, political parties, ballots, campaign expenses, residency, and procedures, and to repeal sections 16-01-13, 16-04-22, 16-04-23, 16-04-24, 16-05-07, 16-07-11, 16-10-07, 16-11-08, 16-13-22, 16-18-10, 16-18-13, 16-20-02, 16-20-03, and 16-20-21, relating to placing measures on the ballot, the filling of vacancies, the appointment of judges of election, and the method of filing statements of campaign expenses.

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

§ 1. Amendment.) Section 1-01-50 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1-01-50. Filing or Presentation of Petitions—Time Limit.)

Whenever in this code provision is made for the filing or presentation of a petition with or to any officer or governing body or board of the state or any agency, instrumentality, or political subdivision thereof as a prerequisite to the calling of an election, or the performance or prohibition of any act, such petition must be filed with or presented to such officer or governing body or board not later than one year from the date such petition is first placed in circulation, or the date the first signature is affixed thereto, whichever date is the latest. If a petition is required by law to be filed or presented on or before a specific or certain date, the petition shall be filed or presented, and physically be in the possession of the person or office designated to receive such petition before four o'clock p.m. on such date. The provisions of this section shall not apply in any case where the law governing a particular petition specifies a shorter or a longer period of time or a different time of day.

§ 2. Amendment.) Section 5-01-13 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

***5-01-13. Selling or Permitting the Consumption on Licensed Premises on Certain Days Prohibited.)** Every licensee who sells, gives away, or disposes of any alcoholic beverage, or permits the consumption of alcoholic beverages in or on the licensed premises on Memorial Day, Good Friday, Sunday, after six p.m. on Christmas Eve, on Christmas Day, or on the day of any general, primary, special, or local election, in the village, city or county where held before or while the polls are open or within one hour thereafter is guilty of a misdemeanor.

§ 3. Amendment.) Subsection 6 of section 11-11-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6. To establish election precincts in the county in areas outside the boundaries of incorporated cities;

§ 4. Amendment.) Section 15-28-05 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-28-05. Compensation of Election Officials.) Election officials at public school district elections shall receive as compensation therefor the sum of eight dollars. When the number of votes cast at such an election exceeds one hundred, each officer shall receive as additional compensation the sum of two

***Note:** Section 32 of chapter 80, 1967 S.L., repealed section 5-01-13.

dollars for every additional one hundred votes cast or major fraction thereof, but not more than eighteen dollars in all for such services.

§ 5. Amendment.) Section 15-28-06 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-28-06. Annual and Special Elections—Notice.) Notice of the annual school district election shall be given by the county superintendent of schools in accordance with the provisions of section 15-22-23. Notice of special school elections shall be given by the school board. At least fourteen days before the date the special election is to be held the school board shall cause to be published, in the official newspaper of the county, notice of the special election. If no newspaper is published in the county, the notice shall be published in a newspaper in an adjoining county in the state. Such notice shall be signed by the clerk, or in his absence by the president of the school board, and shall state the time and place of holding the election, and the matter to be voted upon.

§ 6. Amendment.) Section 15-28-09 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-28-09. Election—Candidates—Ballots—Stickers.) Any candidate for election as a member of the school board of a school district shall file with the clerk of the board, not less than twenty days before the election and before four o'clock p.m. on the twentieth day, a statement setting forth his name and the position for which he is a candidate. A statement which is mailed to the clerk shall be in his physical possession before four o'clock p.m. on the twentieth day before the election. At least fifteen days before the election, the clerk shall prepare and cause to be printed, or otherwise uniformly reproduced, an official ballot containing the names of all persons who have filed as herein provided. The arrangement of the names of the candidates upon the ballot shall be determined by lot by such clerk in the presence of the candidates or their representatives. The ballot shall be headed "official ballot," shall be nonpartisan in form, and shall contain the following:

1. The name of the district;
2. The date of the election;
3. The number of persons to be elected to each office; and
4. Blank spaces below the names listed as candidates for each office in which names not stated on the ballot may be written.

In school districts wherein membership on the school board is required to include persons residing on farms outside of the corporate limits of any city or village, the official ballot shall designate the candidates for such position or positions as "rural candidates". Nothing herein shall prevent any person who is qualified to hold the office, who desires to be a candidate at the election, and who has failed to file as herein provided, from providing stickers to be attached to the official ballot by the electors. A sticker shall not be more one-half inch in width, and shall have printed thereon the name and address of one person.

§ 7. Amendment.) Section 16-01-02 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-01-02. Opening and Closing of Polls.) The polls at all primary, general, and special elections shall be opened at nine o'clock a.m. or at such earlier hour, but not earlier than seven o'clock a.m., that may be designated for any precinct by resolution of the governing body of the city or township in which such precinct is located. They shall remain open continuously until seven o'clock p.m., or such later hour not exceeding eight o'clock p.m. as may be designated for any precinct by resolution of the governing body of the city or township in which the precinct is located. Twenty minutes prior to the hour of closing the polls, the inspector shall proclaim to the electors outside the number of minutes before the polls will be closed.

§ 8. Amendment.) Section 16-01-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-01-07. Constitutional Amendments and Other Questions To Be Advertised—Notification by Secretary of State—Manner of Publishing.) Whenever a proposed constitutional amendment or other question is to be submitted to the people of the state for popular vote, the secretary of state shall, not less than thirty days before election, certify the same to the auditor of each county in the state, and the auditor of each county shall cause notice thereof to be included in the notice required by section 16-06-02 for the election. Questions to be submitted to the people of the county shall be advertised in the same manner.

The secretary of state shall, at the same time that he certifies notice to the county auditors of the submission of a constitutional amendment or an initiated or referred measure, certify the form of the ballot for such measures. Such form shall conform to the provisions of section 16-11-07 and shall be

used by all county auditors in preparing ballots for submission to the electorate of each county and in the preparation of sample ballots.

At the same time as the sample ballot is published the complete text of any constitutional amendment, initiated measure, or referred measure shall be published in columns in order to enable the electors to become familiar with the total text of the proposed constitutional amendment or initiated or referred measure, in addition to the sample ballot listing ballot titles.

§ 9. Amendment.) Section 16-03-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-03-01. Individual Nominations May Be Made.) Nominations of candidates, for an office to be filled at a general or special election except an office appearing on the no-party ballot may be made as provided in this chapter and the names of such candidates shall be placed on the ballot in a single column for independent candidates.

§ 10. Amendment.) Section 16-03-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-03-02. Certificate of Nomination by Petition—Signatures Required—Contents.) A candidate for public office may be nominated by filing a certificate of nomination containing the name of the candidate for the office to be filled, his post office address, and a designation in not more than five words of the party or principle which the nominee represents if he so desires. Such certificate shall be signed by electors who reside within the state, and, if the office to be filled is that of a district or political subdivision, by electors who reside within the district or political subdivision in and for which the officer is to be elected in the following number:

1. When the nomination is for an office to be filled by the electors of the entire state, the number of signatures shall not be less than three hundred; and
2. When the nomination is for an office to be filled by the electors of a district less than the entire state, the number of signatures shall be ten percent of the number of votes cast in such district for member of Congress at the last preceding general election except that in no case shall more than three hundred signatures be required.

Such signatures need not be appended to one paper. Each elector signing a certificate shall add to his name his mailing

address and the date of signing. Such certificate may be filed as provided in section 16-05-01.

§ 11. **Amendment.)** Section 16-04-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-04-02. State Candidate's Petition or Political Party Certificate of Endorsement Required to Get Name on Ballot—Contents of Petition—Time for Filing.) Every candidate for United States senator, United States representative, a state office other than the office of state senator or state representative, and judges of the supreme and district courts, shall not more than sixty days nor less than forty days and before four o'clock p.m. of the fortieth day prior to a primary election, present to the secretary of state a petition or an appropriate certificate of endorsement from the state chairman of any legally recognized political party, giving his name, post office address, the title of the office to which he aspires, and the party which he represents, except that in the petition for an office having no-party designation, no reference shall be made to party affiliation. Any petition or certificate of endorsement which is mailed shall be in the possession of the secretary of state before four o'clock p.m. on the fortieth day. Such petition shall contain the names of three percent of the total vote cast for the candidates of the party with which he affiliates, for the same position at the last general election, except that in no case shall more than three hundred names be required. In a case where there is a candidate for the no-party ballot or where there was no candidate of a party for a position at the preceding general election, the nominating petition shall contain at least three hundred names. Each name on the petition shall be that of an elector, contain such elector's mailing address, together with the date of signing, and shall be subscribed under a certified party heading.

§ 12.) Section 16-04-02.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

16-04-02.1. Form of Certificate of Endorsement.) A certificate of endorsement to be filed with the proper officer as provided in this chapter shall be in substantially the following form:

Certificate of Endorsement

I,, do certify that I am the state (district) chairman of the.....political party of the.....legislative district of the state of North Dakota and that..... (insert name of endorsee), residing at.....

was duly endorsed for nomination to the office of.....
 on the.....day of.....,
 by the.....political party of the.....
 legislative district (if appropriate), duly convened and organ-
 ized in accordance with the bylaws of the.....
 political party and the laws of this state, and do hereby
 request.....name be printed upon the
 ballot as a candidate for the nomination of the office of.....
at the forthcoming primary election
 to be held on September.....of this year.

Dated this.....day of.....

.....
 (Signature of state or district chairman)

§ 13. Amendment.) Section 16-04-03 of the North Dakota
 Century Code is hereby amended and reenacted to read as
 follows:

**16-04-03. Applicant's Name Placed Upon Ballot—Affidavit
 to Accompany Petition.)** Upon receipt by the secretary of
 state of the petition or certificate of endorsement provided
 for in section 16-04-02 accompanied by the following affidavit,
 he shall place the applicant's name upon the primary election
 ballot in the columns of his party as hereinafter provided.
 Said affidavit may be substantially as follows:

State of North Dakota }
 County of..... } ss.

I,, being duly sworn,
 depose and say that I reside in the county of.....
 and state of North Dakota; that I am a qualified voter therein;
 that I am a candidate for nomination to the office of.....
to be chosen at the primary
 election to be held on the....., 19.....,
 and I do hereby request that my name be printed upon the
 primary election ballot as provided by law, as a candidate of
 the.....party for said office.

.....
 Subscribed and sworn to before me, this.....day of
, 19.....

.....
 Notary Public
 North Dakota

§ 14. Amendment.) Section 16-04-04 of the 1965 Supple-
 ment to 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 of the county in which he resides a certificate of endorsement signed by the district chairman of any legally recognized political party giving his name, post office address, the title of the office to which he aspires, and the party which he represents, or a petition giving his name, post office address, and the title of the office to which he aspires. A petition for an office which is under party designation, shall state the party represented by the candidate. If the petition or certificate of endorsement is mailed it shall be in the possession of the county auditor before four o'clock p.m. on the fortieth day prior to the primary election. 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 most recent general election at which such office was voted upon 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 most recent general election at which such office was voted upon, 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 any 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 and county auditor at the most recent general election at which such officers were elected in such county or district as the case may be where the petitioner resides, 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 two. 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 add his mailing address and the date of signing.

§ 15. Amendment.) Section 16-04-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-04-05. County Auditor to Place Applicant's Name on Ballot.) Upon receipt of the petition or certificate of endorsement provided in section 16-04-04 by the county auditor and when accompanied by an affidavit as provided in section

16-04-03, such county auditor shall place the name of such applicant upon the primary election ballot in the party or appropriate column, as the case may be.

§ 16. **Amendment.)** Section 16-04-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-04-06. Filing Petition or Certificate of Endorsement When Legislative District Composed of More Than One County.) When a legislative district is composed of more than one county, the certificate of endorsement or the petition provided for in section 16-04-04 shall be filed with the county auditor of the county where the candidate resides, and such county auditor shall certify to the county auditors of the other counties comprising such legislative districts the names of the candidates filing such petitions or certificates.

§ 17. **Amendment.)** Section 16-04-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-04-08. Filling Vacancy in Party Primary Election Ballot Permissible — Petition — Affidavit.) When the time during which a petition or certificate of endorsement provided for in this chapter may be filed has expired, and a vacancy exists in the primary election ballot of any political party because no petition or certificate of endorsement has been filed for such nomination, such vacancy may be filled by a certificate of endorsement and affidavit or petition and affidavit as provided in section 16-04-07. Such certificate of endorsement and affidavit or petition and affidavit shall be filed with the proper officer at least thirty-five days before the primary election and before four o'clock p.m. on the thirty-fifth day. If such forms are mailed they shall be in the possession of the designated officer before four o'clock p.m. on the day due.

§ 18. **Amendment.)** Section 16-04-11 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-04-11. Secretary of State to Give Notice to County Auditor of Officers To Be Nominated.) Between the first day of June and the first day of July in each primary election year, the secretary of state shall direct and cause to be delivered to the county auditor of each county a notice specifying the several officers to be nominated in such county at the next primary election. The publication of the sample ballot by the county auditor shall constitute the notice of the secretary of state in regard to the officers and candidates to be voted upon at the primary election.

§ 19. Amendment.) Section 16-04-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-04-13. County Auditor to Publish Sample Primary Election Ballot and Notice of Time and Place of Election.) The county auditor shall publish in the official county newspaper and if no newspaper is published in the county then in a newspaper published in an adjoining county in the state:

1. A copy of the sample ballot of the primary election, as arranged by order and direction of the persons charged with such duty. The form of the ballot so published shall conform in all respects to the form prescribed for the sample primary ballot and the makeup and general form shall conform to that prescribed for said sample ballot, except that the candidates from each legislative district which falls within the boundaries of the county shall be listed in a separate box or category by legislative district number so as to enable the voters in each legislative district to ascertain the legislative candidates in their specific district. The form so published shall be printed in either six point or eight point type;
2. The date of the primary election;
3. The hours during which the polls will be open; and
4. The statement that the primary will be held in the regular polling place in each precinct.

Such notice shall be published once in the official county newspaper no later than one week and no earlier than two weeks prior to the primary election.

§ 20. Amendment.) Section 16-04-15.1 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-04-15.1. 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 most recent primary election at which the office of governor was voted upon 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. Immediately under the name of 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.

§ 21. **Amendment.)** Section 16-04-17 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-04-17. Arrangement of Names on Ballots and Voting Machines.) Upon sample ballots, the names of candidates for each office shall be arranged alphabetically according to surnames. The names of candidates under headings designating each official position shall be alternated on the official ballot in the printing, in the following manner: the forms shall be set up with the names in the order in which they are submitted for use on the sample ballots by the secretary of state for the state and district offices, and prepared by the county auditor for the state, district, and county offices. In printing each set of official ballots for the various election precincts, the position of the names shall be changed in each office division as many times as there are candidates in the office division or group in which there are most names. The same number of ballots shall be printed after each change. In making the changes of position, the printer shall take the line of type at the head of each office division and place it at the bottom of that division, shoving up the columns so that the name that was second before the change shall be first after the change.

In municipalities or political subdivisions employing voting machines the position of names which require alternating or rotating as hereinbefore provided shall be rotated on the voting machines by precincts so that the name appearing first in one precinct will be last in the next precinct, and the name that appeared second shall be first in the next precinct and so on until each name has been moved up or over one space accord-

ingly. This process shall be continued from one precinct to another and for as many names as are involved.

§ 22. Amendment.) Subsection 4 of section 16-04-20 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. Any other party, if a petition signed by fifteen thousand or more electors of this state is filed with the secretary of state before four o'clock p.m. on June first of any primary election year, asking that a column be provided for such party, naming it, and stating the platform principles thereof. If such petition is mailed it shall be in the possession of the secretary of state before four o'clock p.m. on June first. Candidates of such party shall be entitled to the same rights and privileges as those of other parties.

§ 23. Amendment.) Section 16-04-21 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-04-21. Party Committees to Fill Vacancy Occurring in Nomination for Party Office.) 1. Should a vacancy occur in any party endorsement by certificate for nomination at the primary election for any state or legislative district office, the proper state or district executive committee of the political party may fill such vacancy by filing another certificate of endorsement with the proper officer as provided in sections 16-04-02 and 16-04-04.

2. If no party endorsement has been made by certificate and a vacancy occurs in a slate of candidates seeking party nomination by petition at the primary election, the proper state or district executive committee may fill such vacancy by filing a certificate of endorsement with the proper officer as provided in sections 16-04-02 and 16-04-04.

3. If party endorsements by certificate have been made for any state or district office and a vacancy occurs in the slate of persons seeking nomination at the primary election because of the unavailability of the person who is seeking nomination by petition, such vacancy shall not be filled except by petition.

4. Should a vacancy occur in a slate of candidates after such candidates have been nominated at the primary election, the proper state or district executive committee may fill such vacancy by filing a certificate of nomination with the secretary of state. The chairman and secretary of such committee shall make and file with the secretary of state the certificate setting forth the cause of the vacancy, the name of the person

for whom the new nominee is to be substituted, the fact that the committee was authorized to fill vacancies, and such further information as may be required to be given in an original certificate of nomination. When such a certificate is filed, the secretary of state in certifying the nomination to the various auditors shall insert the name of the person who has been nominated to fill the vacancy in place of the original nominee. If the secretary of state already has forwarded his certificate, he forthwith shall certify to the auditor of the proper county or counties the name and post office address of the person nominated to fill a vacancy, the office he is nominated for, the party or political principle he represents, and the name of the person for whom such nominee is substituted. The failure to publish the name of a person substituted shall not invalidate the election.

Vacancies to be filled according to the provisions of this section may be filled not later than thirty-five days prior to the election.

§ 24. **Amendment.)** Section 16-04-26 of the 1965 Supplement to 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. Each clerk shall be required to keep only one complete list of voters whether or not a special election is held simultaneously with the primary election.

§ 25. **Amendment.)** Section 16-04-29 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-04-29. Vote Required at Primary Election for Nomination.) No person shall be deemed nominated as a candidate for any office at any primary election unless the number of votes received by him equals the number of signatures required, or which would have been required had he not had his name placed upon the ballot through a certificate of endorsement, to be obtained on the petition to have a candidate's name for such office placed on the primary ballot.

§ 26. **Amendment.)** Section 16-05-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-05-03. Certificate of Nomination—Time of Filing.) Certificates of nomination to be filed with the secretary of state, shall be filed not less than forty days before the day fixed by law for election of persons in nomination and not later than four o'clock p.m. on the fortieth day, and certificates of nomination herein directed to be filed with the county auditor, shall be filed not less than thirty-five days before the day of election and not later than four o'clock p.m.; provided that in the case of nominations for special elections called to fill vacancies caused by death, resignation or otherwise, such certificates shall be filed not less than thirty-five days before the day of election and not later than four o'clock p.m., on the thirty-fifth day. Any petition which is mailed shall be in the possession of the secretary of state or the county auditor before four o'clock p.m. on the final day for filing. The secretary of state and the several county auditors shall cause to be preserved in their respective offices for six months all certificates of nominations filed therein under the provisions of this section. All such certificates shall be open to public inspection under proper regulations to be made by such officers.

§ 27. Amendment.) Section 16-05-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-05-04. Secretary of State to Certify Nominations for State Office.) Not less than thirty days nor more than thirty-five days before an election to fill any state or district office, the secretary of state shall certify to the county auditor of each county within which any of the electors may by law vote for candidates for such office, the name and post office address of each person nominated for such office, as specified in the certificates of nomination filed with him. In case of a special election called to fill a vacancy the secretary of state shall so certify the names of such candidates not less than thirty days before such special election.

§ 28. Amendment.) Section 16-05-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-05-05. In Case Nominee Declines, Certificate Void.) Whenever any person nominated for public office under the provisions of this title shall, at least thirty-five days before election, in writing notify the officer with whom the certificate nominating him is filed that he declines such nomination, such nomination shall be void.

§ 29. Amendment.) Section 16-06-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

***16-06-02. Notice of Election — Contents — Publication with Sample Ballot.)** Notice of any general election shall be published by the county auditor in the official county newspaper at the same time as, and as a part of, the publication of the sample ballot no later than one week, and no earlier than two weeks next preceding such election. Such notice shall be substantially as follows:

Notice is hereby given that on Tuesday, the..... day of..... next, at the polling places in the various precincts in the county of..... an election will be held for the election of state, district, and county officers, which election will be opened at..... o'clock a.m. and will continue open until..... o'clock p.m. of that day with the following exceptions:.....

Dated this..... day of....., A.D., 19.....

(Signed).....
County Auditor

The county auditor shall publish no later than one week and no earlier than two weeks prior to the election in the official county newspaper and if no newspaper is published in the county in a newspaper published in an adjoining county in the state, a copy of the sample ballot of the general election, as arranged by order and direction of the persons charged with such duty. The form of the ballot so published shall conform in all respects to the form prescribed for the sample general election ballot and the makeup and general form shall conform to that prescribed for said sample ballot, except that the candidates from each legislative district which falls within the boundaries of the county shall be listed in a separate box or category by the legislative district number so as to enable the voters in each legislative district to ascertain the legislative candidates in their specific district. The form published shall be printed in either six point or eight point type.

§ 30. Amendment.) Section 16-06-04 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-06-04. Secretary of State to Give Notice to County Auditor of Officers To Be Elected.) Not later than the tenth day of October in each general election year, the secretary of state shall direct and cause to be delivered to the county auditor of each county a notice specifying each officer to be chosen at the next general election. The publication of the sample ballot by the county auditor shall constitute the notice

*Note: Section 1 of chapter 159, 1967 S.L., also amends section 16-06-02.

of the secretary of state in regard to the offices and candidates to be voted upon at the general election.

§ 31. **Amendment.)** Section 16-07-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-07-01. Notice of Special Election.) A notice of a special election and the copy of the sample ballot shall be issued in substantially the form and manner prescribed by section 16-06-02 and shall be published as therein prescribed.

§ 32. **Amendment.)** Section 16-07-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-07-02. Special Election to Fill Vacancies—Party Committee to Call Convention to Nominate—Individual Nominations.) If a special election is called to fill a vacancy in any office for which a party nomination may be made, the proper party committee shall call a convention to make a party nomination for such office, and the precinct committeemen of the district shall be duly convened and shall elect the required number of delegates to such convention. Individual nominations for special elections shall be made in accordance with the provisions of chapter 16-03.

§ 33. **Amendment.)** Section 16-07-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-07-04. Basis of Representation at Convention—How Determined.) The basis of representation of delegates to a convention, unless otherwise provided by law, shall be fixed and determined by the authorized district or state committee of each political party entitled by law to make nominations for office by delegate convention.

§ 34. **Amendment.)** Section 16-07-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-07-09. Vacancy Existing in Office of Member of Legislative Assembly—Special Election to Fill.) Whenever a vacancy in the office of a member of the legislative assembly occurs by death, resignation, or otherwise, the county auditor of the county in which such former member resides or resided, officially shall notify the governor thereof. Upon receiving such notification, the governor, if there is a session of the legislative assembly between the time such vacancy occurs and the time of the holding of the next general election, shall issue a writ of election directed to the auditor of such county com-

manding him to notify the several boards of election in the county or district in which the vacancy occurs to hold a special election at a time designated by the governor to fill such vacancy. If there is no session of the legislative assembly between the time such vacancy occurs and the time of the holding of the next general election, the special election shall be held at the same time as the general election. If the term of office of the member whose office is vacated expires prior to the next session of the legislative assembly, no election shall be held to fill such vacancy.

§ 35. Amendment.) Section 16-07-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-07-12. Canvassing and Returning Votes Cast at Elections to Fill Vacancies.) Votes cast at special elections shall be canvassed and returned as provided for primary and general elections, and the county auditor within eight days shall forward to the secretary of state the abstracts of the same.

§ 36. Amendment.) Section 16-08-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-08-04. Persons Nominated—Partisan Nominations Prohibited.) The number of persons to be nominated as candidates for any one office shall be that number of persons who receive the highest number of votes and who total twice the number of available positions for such office, if that many persons are candidates for nomination, provided, however, that no person shall be deemed nominated as a candidate for any office at any primary election unless the number of votes received by him equals the number of signatures required to be obtained on a petition to have a candidate's name for such office placed on the primary ballot. No partisan nominations shall be made for any of the offices mentioned in section 16-08-01.

§ 37. Amendment.) Section 16-08-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-08-05. No-Party Ballot at General Elections—Contents—Delivered to Elector—Number of Votes Required.) There shall be a separate no-party ballot at the general election upon which shall be placed the names of all candidate who have been nominated on the no-party primary ballot at the primary election. Such ballot shall be in the same form as the no-party primary ballot and shall be delivered to each elector by the proper election official. The candidate or candidates to the

number to be elected for each office receiving the highest number of votes shall be duly elected to such office, provided however, no person who was entitled to have his name appear on the primary election ballot, but whose name was not placed on the primary election ballot, shall be elected to a no-party office as a write-in candidate unless such person receives a number of votes equal to or more than the number of signatures which would have been required to have his name placed on the primary election ballot.

§ 38. **Amendment.)** Section 16-08-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-08-07. Filling Vacancy Existing on No-Party Ballot—Petition Required—Time of Filing.) Whenever a vacancy shall exist on a no-party ballot for a state office or for judge of a district court, such vacancy may be filled by filing with the secretary of state, at least thirty-five days prior to the general election and before four o'clock p.m. on the thirty-fifth day, a written petition as provided in section 16-04-02, stating that the petitioner desires to become a candidate for election to the office for which a vacancy exists. If the petition is mailed it shall be in the physical possession of the secretary of state before four o'clock p.m. on the thirty-fifth day prior to the general election. The petition for the nomination of any person to fill such vacancy shall be signed by qualified electors equal in number to at least two percent of the total vote cast for governor at the most recent general election in the state or district at which the office of governor was voted upon.

Whenever a vacancy shall exist on a no-party ballot in a county or district within a county, such vacancy may be filled by filing with the county auditor at least thirty-five days prior to the general election and before four o'clock p.m. of the thirty-fifth day a written petition as provided in section 16-04-04, stating that the petitioner desires to become a candidate for election to the office for which a vacancy exists. If such petition is mailed it shall be in the possession of the county auditor before four o'clock p.m. on the thirty-fifth day prior to the general election. The petition for the nomination of any person to fill such vacancy shall be signed by qualified electors equal in number to at least thirty percent of the total vote cast for governor at the most recent general election in the county or district at which the office of governor was voted upon.

A vacancy in the no-party ballot shall be deemed to exist when a candidate nominated at the primary election shall die, resign, or otherwise become disqualified to have his name printed on the ballot at the general election.

§ 39. Amendment.) Section 16-09-01 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-09-01. Board of County Commissioners May Divide County Into Precincts Except in Cities—Preservation of Boundaries—Number of Electors—When May Redivide, Annex, Vacate or Combine Voting Precincts—Election Inspectors Designated.) The board of county commissioners may divide the county into precincts and establish the boundaries of the same except that within the boundaries of incorporated cities the governing body of such cities shall divide the cities into precincts and establish their boundaries pursuant to the provisions of title 40. The entirety of civil townships or cities shall be preserved as precincts except when such preservation would be in conflict with the provisions of this chapter. In such case, the civil township or city, except as provided in this chapter, shall be divided into two or more precincts, but in no case shall a precinct be composed of parts of two civil townships, or part of a township and of a city, except as provided in this chapter. No precinct in which voting machines are not used shall contain more than five hundred electors. It is further provided that the board of county commissioners may redivide the county into precincts, annex an existing precinct to another existing precinct, or combine two or more existing precincts one to another when

1. A petition signed by seventy percent of the electors residing within an existing precinct is presented requesting such existing precinct to be annexed to and become a part of another existing precinct;

2. In the board's discretion, prompted by inaccessibility of polling places, difficulty in obtaining election boards, or economic infeasibility, an existing precinct may be annexed to and become a part of another existing precinct; or

3. The board of county commissioners may combine in their entirety two or more adjoining civil townships into one voting precinct with a common polling place for all elections other than township or school district elections or as otherwise provided by this chapter.

In the case of precincts which are combined, the board of county commissioners shall designate the person to be the inspector of elections of the new voting precinct. In the case where one precinct is annexed to another, the inspector of elections of the annexing precinct shall be the inspector of elections for the new precinct.

§ 40. **Amendment.)** Section 16-09-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

***16-09-02. Precincts in Incorporated Cities May Be Divided Into Two Precincts.)** If more than three hundred votes are cast in any precinct in any incorporated city, the governing body of such city may divide such precinct into two precincts as nearly equal to each other in voting strength as may be possible and shall notify the county auditor of such division.

***Note:** Section 26 of chapter 323, 1967 S.L., also amends section 16-09-02.

§ 41. **Amendment.)** Section 16-09-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

***16-09-03. Precinct Shall Be Divided Into Two Precincts When More Than Five Hundred Votes Cast in Precinct.)** If more than five hundred votes are cast in any election in a precinct in which voting machines are not used, the inspector of such precinct shall report such fact to the board of county commissioners, or, if the precinct is in an incorporated city, to the governing body thereof, and such board or body at its next regular meeting shall divide such precinct into two precincts as nearly equal to each other in voting strength as may be possible and shall notify the county auditor of such division.

***Note:** Section 27 of chapter 323, 1967 S.L., also amends section 16-09-03.

§ 42. **Amendment.)** Section 16-09-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-09-05. Board of County Commissioners May Change Voting Place in Precinct Except in Cities.) Except within the boundaries of incorporated cities the board of county commissioners, at any regular or special meeting, may change any voting place in any precinct.

§ 43. **Amendment.)** Section 16-09-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-09-06. Township May Have Voting Place Outside Its Boundaries.) The board of county commissioners when necessity and convenience demands it, may designate a precinct voting place outside of the boundaries of a precinct.

§ 44. **Amendment.)** Section 16-09-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-09-07. Township and City May Have Only One Voting Place—When.) When the combined vote of any township and incorporated city, or the combined vote of any township and any portion of an incorporated city, within its boundaries, does not exceed five hundred, such township and incorporated city shall have but one voting place which shall be designated by the governing body of the incorporated city and shall be placed within the boundaries of the incorporated city.

§ 45. Amendment.) Section 16-10-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-10-01. Board of Elections—What Constitutes—Qualifications of Members.) The judges of election, together with the inspector of elections, shall constitute the board of elections. No person shall be a member of the board of elections or a poll clerk or assistant poll clerk who:

1. Has anything of value bet or wagered on the result of an election;
2. Is a candidate at an election; or
3. Is the husband, wife, father, mother, father-in-law, mother-in-law, son, daughter, son-in-law, daughter-in-law, brother or sister, of any candidate except a candidate for precinct committeeman at an election.

§ 46. Amendment.) Section 16-10-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-10-02. Inspector of Elections in Townships.) The chairman of the board of supervisors in organized townships shall be inspector of elections. If the township contains more than five hundred voters, such chairman shall be inspector of elections in the precinct in which he resides and shall appoint the inspectors in all other precincts which are component parts of the township in which he is chairman of the board. If the township and any incorporated city within its limits contain less than five hundred electors and such township and incorporated city have but one voting place, the mayor of the city council shall be inspector of elections.

§ 47. Amendment.) Section 16-10-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-10-04. Inspector of Elections in Council Cities—Appointment—Candidate Disqualified.) In cities operating under the council form of government the city council shall appoint the inspectors of election. Such inspectors shall be appointed no

later than twenty-one days prior to an election except in the case of a special election where time does not allow for such early appointment. Any alderman who is not a candidate for election may be appointed an inspector of elections for the precinct in which he resides. The city council shall, within twenty-four hours, notify the county auditor of the appointment of the inspectors.

§ 48. Amendment.) Section 16-10-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-10-06. Inspector of Elections in Commission Cities.) In cities operating under the commission system of government, the board of city commissioners shall appoint, no later than twenty-one days prior to an election except in the case of special elections where time does not allow for such early appointment, an inspector of elections for each precinct within the corporate limits of such city and shall within twenty-four hours, notify the county auditor of such appointments.

§ 49. Amendment.) Section 16-10-08 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-10-08. Chairman of District Committee Shall Appoint Person as Judge of Elections.) At least two weeks prior to a primary, general, or special election, the chairman of the district committee of each of the two parties which cast the largest number of votes in the state at the last general election shall appoint a member of such party as judge of election for each precinct in the district. Each person appointed shall have the qualifications prescribed in this chapter, shall be a qualified elector, and shall be given a certificate of appointment signed by the chairman of the district committee. The chairman of the district committee of the two political parties shall notify the county auditor of the counties in which the precincts are located of the appointment of the judges of election at least two weeks prior to the primary, general, or special election. If such notice is not received within the time specified in this section, the inspector of election shall appoint the judge no later than one week prior to the election.

§ 50. Amendment.) Section 16-10-17 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

***16-10-17. State's Attorney to Meet with Inspectors.)** Not more than twenty days nor less than three days before each primary and special statewide or congressional election, the

***Note:** Section 1 of chapter 160, 1967 S.L., also amends section 16-10-17.

state's attorney of each county shall require 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.

§ 51. Amendment.) Section 16-11-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-11-05. Form of General Election Ballot.) The official ballots provided for in this title for partisan election at general elections in precincts in which voting machines are not used shall be prepared as follows:

1. The ballots shall be of sufficient width to contain all of the tickets to be voted for, under the appropriate party designation for each;
2. On the left-hand side of such ballot shall be a column designating the office to be voted for, and on the same line, in the column under the appropriate party designation of each, all of the names of the candidates duly nominated for that office shall be printed;
3. The names of candidates under headings designating each official position shall be alternated on the official ballot in the printing in the same manner as is provided in the primary election ballot;
4. The names of all persons nominated by petition shall be placed in one column under the designation of "independent nominations" in the lines respectively specifying the offices for which they are nominated; and
5. The size of type shall be as specified by the secretary of state.

In precincts in which voting machines are used, the list of offices and candidates and the statements of measures and questions to be submitted to the voters shall be arranged in

a manner and form approximating as far as possible the requirements of this section.

§ 52. Amendment.) Section 16-11-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-11-07. Constitutional Amendments and Initiated and Referred Measures—Placed on Separate Ballot—Manner of Stating Question—Order of Listing.) Constitutional amendments duly certified to the county auditor by the secretary of state, or any question to be voted for aside from the election of public officers, shall be printed on a separate ballot by ballot title only and in the manner specified by the secretary of state and shall be deposited in a box separate from that provided to receive the ballots for public officers. The size of type to be used on such ballots shall be specified by the secretary of state. Immediately preceding the ballot title of the constitutional amendment or initiated or referred measure on the printed ballot, the secretary of state shall cause to be printed a short concise statement in boldface type, which statement shall fairly represent the substance of the constitutional amendment or the initiated or referred measure. The attorney general shall approve all such statements written by the secretary of state. The words "Yes" and "No" shall be printed on the ballot at the close of the statement of the question, in separate lines with a square formed of black lines after each statement in which the voter may indicate by a cross or other mark how he desires to vote on the question. Where two or more amendments or questions are to be voted on, they shall be printed on the same ballot. In precincts in which voting machines are used the ballot title, in the case of amendments or measures submitted by the people, or the title of the legislative bill or resolution, which shall serve as the ballot title, in the case of proposed amendments submitted by the legislative assembly, shall be set forth in full. Provided, however, in such cases where the ballot title or the title of the legislative bill or resolution is of such length to make it physically impossible to fit such titles upon voting machines, the attorney general shall reduce such titles to a length which will allow the placing of such titles upon voting machines, but shall fully express the purpose of such amendments or questions, and such reduced version of the titles shall be used on the voting machines.

The measures to be submitted to the electors shall be grouped and classified as constitutional measures, initiated statutes, or referred statutes and shall be numbered within such groups or classifications by the secretary of state in the order received, for the purpose of placing them on the ballot. Measures submitted by the legislative assembly shall be placed

first on the ballot within their classification in the order approved by the legislative assembly. Constitutional measures shall be placed first on the ballot, initiated statutes second, and referred statutes third.

§ 53. **Amendment.)** Section 16-11-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-11-09. Advertisement of Text of Proposed Amendment to Constitution—Form and Contents of Advertisement.) The advertisement of the complete text of a proposed amendment to the Constitution which is published in any newspaper or pamphlet under the authority of the secretary of state shall have the particular words or phrases forming the amendment printed in different type.

§ 54. **Amendment.)** Section 16-11-11 of the 1965 Supplement to 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 auditors 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, the date of the election, and providing for a blank line preceded by the word "Initials" for the purpose of providing a space where the judge or inspector shall place his initials. He also shall deliver or cause to be delivered a suitable seal, which has the name of the county inscribed thereon, for the purpose of sealing the wrapper containing the ballots as provided in section 16-13-09.

§ 55. **Amendment.)** Section 16-11-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-11-12. Instructions, Advertisements and Ballots Posted in Polling Places.) Each county auditor shall cause to be printed on cards, in large type, full instructions to electors as to the manner of obtaining and preparing ballots and a copy of

section 16-01-08 and of sections 12-11-26 and 12-11-28. He shall furnish ten of such cards to the judges of election in each election precinct and the judges of election, at the opening of the polls, shall post at least one of such cards in each booth or compartment provided for the preparation of ballots and at least three of such cards in and about the polling place. One of the official ballots without the official stamp thereon shall be posted in each booth or compartment, and not less than three of such ballots shall be posted in other places in and about the polling place upon the morning of the election. The county auditor, at the time of delivering the ballots to the inspector of elections in each precinct, shall deliver a minimum of five copies of the newspaper publication or other copy of the complete text of any constitutional amendment or initiated or referred measure to such inspector of elections. Not less than three of such newspaper publications or copies shall be posted in and about the polling place upon the morning of the election in addition to the ballots required to be posted by law.

§ 56. Amendment.) Section 16-12-04 of the 1965 Supplement to 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 once at the top of the back 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. Failure to stamp and initial a ballot in the proper place on the ballot shall not invalidate such ballot but a failure to stamp and initial a ballot at any place on a ballot shall invalidate the ballot.

§ 57. Amendment.) Section 16-12-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-12-10. Election Booths or Compartments—Number Required—Expense.) The inspector of elections shall provide a sufficient number of booths or compartments in his polling place which shall be furnished with such supplies as to enable the elector to mark his ballot screened from observation. The number of booths or compartments in precincts in which voting machines are not used shall not be less than one for each fifty electors or fraction thereof in the precinct. The expense of

providing such booths or compartments shall be a public charge and shall be provided for in the same manner as other election expenses.

§ 58. Amendment.) Section 16-12-14 of the 1965 Supplement to 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 — Optional Poll Checkers.) One challenger appointed and designated from each of the political party organizations shall be entitled to be in attendance at each polling place. 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. In addition, not more than two poll checkers appointed by the district chairman of each political party may be in attendance at each polling place, provided such poll checkers do not interfere with the election process or with the members of the election board in the performance of their duties.

§ 59. Amendment.) Section 16-13-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-13-07. Reports and Poll Lists Sent to County Auditor— Compensation for Making Returns.) By twelve o'clock noon, of the day following an election except in cases of emergency or inclement weather, the inspector of elections, or one of the judges appointed by him, shall personally deliver the duplicate reports, provided for in section 16-13-04 to the county auditor. Such reports, carefully sealed under cover, accompanied with a poll list, and with the oaths of inspector and clerks affixed thereto, shall be directed properly to the county auditor. The person making such return shall receive the sum of five dollars as compensation therefor and shall also be paid mileage of ten cents per mile provided, however, no compensation and no mileage shall be paid if delivery of the ballots is not made by twelve o'clock noon on the day following the election. The compensation and mileage shall be paid out of the county treasury on a warrant of the county auditor, and shall be full compensation for returning all used or voided ballots and for delivering the ballot boxes to the proper official.

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

16-13-13. County Canvassing Board — Composition.) The county canvassing board shall be composed of the clerk of the district court, county auditor, chairman of the board of county commissioners, and a representative of any of the district committees of a legislative district which may wholly or partly fall within the boundaries of the county as appointed by such committees of the two political parties which cast the highest number of votes for governor at the most recent general election at which the governor was elected.

§ 61. **Amendment.)** Section 16-13-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-13-14. Qualifications of Members of Canvassing Board—Replacements—Quorum.) No member of the county canvassing board who shall be a candidate for office at an election shall serve on such board. If the county auditor is disqualified or cannot serve for any other reason, he shall appoint an alternate to act in his place, but the county auditor shall act as clerk of such board. If the chairman of the board of county commissioners is disqualified or cannot serve for any other reason, he shall appoint a county commissioner who is not a candidate for office to act in his capacity as a member of the county canvassing board or if all county commissioners are disqualified or cannot serve for any other reason he shall appoint as an alternate a disinterested elector of the county, if the clerk of court is disqualified or cannot serve for any other reason he shall appoint an alternate to act in his place, and if any of the representatives of the district committees of the two parties are disqualified or cannot serve for any other reason, they shall appoint an alternate elector or electors from their respective district committees to act in their capacity as a member of the county canvassing board. A majority of the members of the board or their duly appointed replacements shall constitute a quorum and may make the canvass provided for in this chapter and certify the results thereof.

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

16-13-16. Compensation as Members of Board.) Each member of the county canvassing board, who is not a paid official of the county, while serving as a member of the county canvassing board, shall receive eight dollars per day as compensation. In addition, any member of the board who must

travel a distance of over five miles from his home to the place of such meeting and return, shall be paid mileage of ten cents per mile. Such compensation and mileage shall be audited, allowed, and paid by the board of county commissioners in each county.

§ 63. Amendment.) Section 16-13-20 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-13-20. County Auditor to Transmit Abstract of Votes to Secretary of State After Primary Election.) The county auditor of each county, under his official seal, shall return to the secretary of state by registered or certified mail within eight days after the day of any primary election, a certified abstract, under separate political designation or principle, or no-party designation, as the case may be, of the total number of votes cast in his county and the votes cast for every candidate for nomination for United States senator, United States representative, state officers, judges of the supreme court, judges of the district court, and members of the legislative assembly. The county auditor also shall file with the secretary of state a certificate showing the names and addresses of the persons nominated under the several political designations and principles in his county. The certified abstract and the certificate of nomination to be mailed under the provisions of this section shall be in the possession of the secretary of state before four o'clock p.m. on the eighth day after the primary election.

§ 64. Amendment.) Section 16-13-21 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-13-21. Notice of Nomination Given Candidate for County Office by County Auditor—Publication of Findings of Canvassing Board.) Upon the completion of the canvass of the returns of a primary election by the county canvassing board, the county auditor shall mail or deliver in person to each candidate nominated for any county office a certificate of his nomination and notice that his name will be placed on the official ballot. Nomination notices for other than county offices shall be given by the secretary of state pursuant to section 16-13-39. The county auditor shall cause a copy of the findings of the canvassing board to be published in the official newspaper of the county.

§ 65. Amendment.) Section 16-13-24 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-13-24. County Auditor to Forward Abstract of Votes of General Election to Secretary of State—Contents—Abstract for Presidential Electors.) Within eight days and before four o'clock p.m. on the eighth day following any general election, the county auditor of each county, under his official seal, shall return to the secretary of state a certified abstract of the votes cast in his county at such election for each candidate for state and congressional offices, judges of the district courts, candidates for the legislative assembly, and for amendments to the Constitution and other measures. In presidential years, the county auditor shall make a separate certified abstract of the votes cast for electors for president and vice president of the United States. Such separate abstract for electors shall be sealed, endorsed "presidential election returns", and shall be transmitted by registered or certified mail to the secretary of state. At the time that the county auditor transmits the certified abstract of the votes cast in his county, he shall file with the secretary of state a certificate showing the names and addresses of the persons who were elected to the various county offices in his county.

§ 66. Amendment.) Section 16-13-33 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

§ 67. Amendment.) Section 16-16-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-16-08. Application to State Grounds of Contest.) The application provided for in section 16-16-07 shall be made by petition in writing to be filed in the office of the secretary of

state within ten days and before four o'clock p.m. on the tenth day from the date of the proclamation provided for in section 16-16-03. If the petition is mailed it shall be in the possession of the secretary of state before four o'clock p.m. on the tenth day as provided in this section. The secretary of state shall convene the board forthwith. The petition shall set forth the names of the persons whose election is contested and the ground for such contest. The petitioner, before any proceedings are had upon the petition, except the convening of the board, shall file a bond to this state in such sum and with such surety as the court shall order, conditioned for the payment of all costs incurred in the prosecution of such contest in case the contestants shall not prevail.

§ 68. Amendment.) Section 16-17-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-17-02. Number of Precinct Committeemen Political Party Entitled to—Term.) Each political party in each voting precinct in this state shall be entitled to elect one precinct committeeman for each two hundred and fifty votes, or major fraction thereof cast in such precinct at the last preceding presidential election for the presidential electors of such party. Each precinct shall be entitled to at least one precinct committeeman for each national party. Each precinct committeeman shall be an elector of his precinct and shall be elected to serve for a term of four years.

§ 69. Amendment.) Section 16-17-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-17-06. Candidates Elected at Election—Tie Vote—Canvassing Vote—Certificate of Election.) The candidate, or if more than one precinct committeeman is to be elected, the corresponding number of candidates, receiving the highest number of votes shall be declared elected, provided, however, in such case where no person's name appears on the ballot as a candidate for precinct committeeman, no person shall be elected as a precinct committeeman unless such person receives a number of votes equal to or more than the number of signatures required by section 16-17-03 to have his name placed upon the ballot. If no person receives a sufficient number of votes to be elected as precinct committeeman, the persons elected as members of the district committee may appoint a person to serve as precinct committeeman. In case of a tie vote, the election officials immediately shall decide the winner by drawing lots. Upon the closing of the polls, the election officials in each precinct shall proceed to count and canvass the votes cast

for precinct committeeman and ascertain who were elected, and shall notify the county auditor. The county auditor shall make out, upon blanks furnished by the county, and mail to each person elected, a certificate of election.

§ 70. Amendment.) Section 16-17-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-17-08. Vacancies in Office of Precinct Committeeman—Filling.) A vacancy in the office of precinct committeeman shall be filled by appointment from such precinct by the district executive committee of such party.

§ 71. Amendment.) Section 16-17-09 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-17-09. District 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 district committee of such party. The district committee upon a majority vote of its members may appoint any former member of the legislative assembly as an ex officio member of such district committee. In no event shall any person be allowed more than one vote.

§ 72. Amendment.) Section 16-17-10 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-17-10. Meeting of District Committee — Organization.) The district committee of each party shall meet at any hour between the hours of two o'clock p.m. and eight o'clock p.m. on the third Monday in November following each general election. The exact hour and site shall be set by the existing district committee chairman. The district committee shall organize by:

1. Selecting a chairman, a vice chairman, a secretary, and a treasurer chosen by the district committee;
2. Adopting rules and modes of procedure not in conflict with law; and
3. Selecting an executive committee consisting of from five to fifteen persons chosen from the district committee. The chairman, vice chairman, treasurer, and secretary of the district committee shall be members and the officers of the executive committee.

The newly elected chairman shall notify the county auditor as to the names of the party officers selected. If the office of

chairman shall become vacant, the vice chairman shall hold such office until the next regular election for such office or until a new chairman is selected by the district committee for the balance of the term, whichever shall first occur.

§ 73. Amendment.) Section 16-17-11 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-17-11. State Committee—Membership.) The state committee of each party shall consist of the chairman of each of the district committees of such party.

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

16-17-13. Proxies Permissible.) Proxies are permissible at all meetings held pursuant to the provisions of this chapter, but all proxies shall be from the precinct or district which the person giving the proxy represents.

§ 75. Amendment.) Section 16-17-15 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-17-15. State Committee — Meetings — Organization — Vacancies.) The state committees shall meet within forty-five days after each general election. Such meeting shall be held at the state capitol and shall convene at ten o'clock a.m. Such committeemen shall organize by selecting a chairman, a vice chairman, a secretary, and a treasurer and by adopting rules and modes of procedure. The officers elected need not be members of such committee. A vacancy in an office of the state committee, other than a party district chairman, shall be filled by a majority of the state committee.

§ 76. Amendment.) Section 16-17-16 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-17-16. Meeting Precinct Committeemen of District to Elect Delegates to State Party Convention—Optional Precinct Caucus—Proxies.) Prior to the second Monday in June in each presidential election year upon the call of the chairman the district committee of each district shall meet at a place designated by the chairman to elect delegates to a state party convention to be held as provided in this chapter. If the bylaws of the legislative district so provide, precinct committeemen may call a precinct caucus prior to the district meeting for the purpose of electing additional delegates to attend the district meeting. One delegate to the state convention shall be elected

for each three hundred votes or majority fraction thereof cast in such district at the last preceding presidential election for the candidates for presidential electors of such party, but every district shall be entitled to at least one delegate. Delegates shall be electors of their district. If any delegate shall be unable to attend such convention, he shall designate in writing an alternate from the list of alternates selected at the district convention to attend and represent and act for him.

§ 77. Amendment.) Subsection (3) of section 16-18-01 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

- (3) Civilians serving outside the territorial limits of the several states of the United States and the District of Columbia and their spouses and dependents when residing with or accompanying them.

§ 78. Amendment.) Section 16-18-03 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-18-03. Preparation and Printing of Ballots.) For all general, primary, or special state or congressional district elections, for all other special elections held at the same time as a general or primary election, and for all city and school elections, official ballots shall be prepared within the time limits provided for in section 16-18-04. In the case of special elections wherein the election is called less than twenty or fourteen days, as the case may be, before the election day, or where certification of candidates does not take place before the twenty- or fourteen-day limitations, the ballots for the use of absentee voters shall be made available as soon as possible. Only official ballots shall be used as absentee ballots and no indication shall be noted on such ballots that they are used by absentee voters except that the return envelope shall be marked "ballot of absentee voter".

§ 79. Amendment.) Section 16-18-05 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-18-05. Time for Making Application for Ballot.) At any time within thirty days next preceding an election any voter expecting to be absent on the day of election from the county in which his voting precinct is situated, or who by reason of physical disability, or who is serving in the military or naval service or the merchant marine of the United States of America and is unable to attend at the polling place in his precinct to vote at such election, may make application to the county auditor of the county, the auditor or clerk of the city or the

clerk of the school district, as the case may be, for an official ballot to be voted at such election. No such auditor or clerk shall issue ballots for absentee voters on the day of the election.

§ 80. Amendment.) Section 16-18-06 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-18-06. Application Form.) Application for such ballot shall be made on a blank to be furnished by the proper officer of the county, city, or school district of which the applicant is an elector and must be substantially in the following form:

I, _____, a duly qualified elector of the township of _____ or of the _____ precinct of the _____ ward of the city of _____ of the county of _____ of the state of North Dakota, to my best knowledge and belief entitled to vote in such precinct at the next election, expecting to be absent from said county on the day for holding such election, or by reason of physical disability being unable to attend and vote at such election, hereby make application for an official absent voter's ballot to be voted by me at such election.

Date _____

Signed _____

Post office _____

Provided that when such application is made upon the ground of physical disability it shall be accompanied by the certificate of the superintendent of a licensed hospital, nursing home, or retirement home, in which the applicant is actually confined or by the certificate of a licensed physician who is attending said applicant to the effect that said applicant is under such physical disability by reason whereof he is confined to such hospital or other place of confinement (stating location thereof) and is unable to attend and vote at such election.

Provided that qualified electors in the military or naval service or the merchant marine of the United States of America shall not be required to file any formal application for an absent voter's ballot for any general or primary election but each county auditor of each county in the state of North Dakota shall upon receiving any information whether in writing or otherwise as to the mailing address of any qualified elector in the military or naval service or the merchant marine of the United States immediately upon receiving the ballots from the printers, mail to such electors a ballot together with proper return envelope and instructions for voting.

§ 81. Amendment.) Section 16-18-09 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-18-09. Delivering Ballots — Envelope Accompanying — Statement on Envelope—Inability of Elector to Sign Name.) Upon receipt of an application for an official ballot properly filled out and duly signed, or as soon thereafter as the official ballot for the precinct in which the applicant resides has been prepared, the county auditor, auditor of the city or clerk of the school district, as the case may be, shall send to such absent voter by mail, postage prepaid, one official ballot, or personally deliver said ballot to the applicant or his agent; provided that the agent deposit with the auditor or clerk, as the case may be, authorization in writing from the applicant to receive such ballot or according to requirements hereinafter set forth for signature by mark. If there is more than one ballot to be voted by an elector of such precinct, one of each kind shall be included and an envelope shall be enclosed with such ballot or ballots. Such envelope shall bear upon the front thereof the name, official title, and post office address of the officer supplying the voter with the ballot, and upon the other side a printed statement in substantially the following form:

State of }
County of } ss.

I,, under penalty of perjury, do solemnly swear that I am a resident of the township of, or of the precinct of the ward in the city of, residing at in said city, county of and state of North Dakota, and entitled to vote in such precinct at the next election; that I expect to be absent from the said county of my residence on the day of holding such election or that by reason of physical disability I am unable to attend at the polling place for such election, and that I will have no opportunity to vote in person on that day.

.....
If such absent voter is unable to sign his name, he shall make his mark (X) in the presence of a disinterested person. Such disinterested person shall print the name of the person marking his X below the X, and shall sign his own name following the printed name with the notation "witness to his mark".

§ 82. Amendment.) Section 16-18-14 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-18-14. Canvassing of Absent Voters' Ballots of Soldiers and Sailors.) The county auditor, auditor or clerk of the city or school district, as the case may be, upon receipt of an envelope containing an absent voters' ballot of a person engaged in the military or naval service of the United States or any person specified in subsections 1 through 4 of section 16-18-01, shall proceed in the manner as provided in section 16-18-15. In the case of the congressional, state, or county elections, if any such envelope is received by the proper officer too late to be forwarded to the proper voting precinct in time to be canvassed, the same shall be retained by him and canvassed by the canvassing board of the county of such officer at any time prior to the meeting of the state canvassing board or any adjourned meeting of said board where the same has been received by such officer in time to canvass and transmit the results to the state canvassing board. In the case of city or school district elections, if an envelope containing an absent voter's ballot of a person engaged in the military or naval service of the United States or any person specified in subsections 1 through 4 of section 16-18-01 is received by the proper officer too late to be forwarded to the proper voting precinct in time to be tabulated, the same shall be canvassed by the governing body of the city, or the school board of the school district, as the case may be, at such time as the other ballots are canvassed. In all other respect such absent voter ballots of electors engaged in the military service or merchant marine of the United States shall be treated in the same manner as now provided for the absent voter ballots.

§ 83. Amendment.) Section 16-18-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-18-17. Opening Ballot—Voting or Rejecting—Depositing in Ballot Box—Preserving.) At any time between the opening and closing of the polls on election day, the inspector of elections or judges of election of such precinct first shall open the outer envelope and compare the signature to such application for an absent voter's ballot with the signature to the statement provided for in section 16-19-09. If the judges find that the statement is sufficient and that the signatures correspond, and that the applicant is then a duly qualified elector of such precinct and has not voted at such election, they shall open the absent voter's envelope in such manner as not to destroy the statement thereon. They shall take out the ballot or ballots contained therein without unfolding the same, or permitting the same to be opened or examined, and after endorsing the same as other ballots are endorsed, they shall deposit the ballot in the proper ballot box and show by the records of such election that such elector has voted. If such

statement is found to be insufficient, or that the said signatures do not correspond, or that such applicant is not then a duly qualified elector of such precinct, such vote shall not be allowed, but without opening the absent voter's envelope, the inspector of elections or judge of such election shall mark across the face thereof "rejected as defective" or "rejected as not an elector", as the case may be. The absent voter's envelope when such absent vote is voted, and the absent voter's envelope with its contents unopened, when such absent vote is rejected, shall be deposited in the ballot box and shall be retained and preserved in the same manner as official ballots voted at such election are retained and preserved.

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

16-18-18. Violations Constituting Misdemeanor—Penalty.) Any person who shall:

1. Willfully swear falsely to the statement provided for in section 16-18-09; or
2. Willfully make a false application provided for in section 16-18-06,

shall be guilty of a misdemeanor as provided in section 12-06-14.

§ 85. Amendment.) Section 16-18-19 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-18-19. Penalty for Violation of Chapter.) If the secretary of state, county auditor, auditor or clerk of any city, clerk of a school district, or any election officer shall refuse or neglect to perform any of the duties prescribed in this chapter or shall violate any of the provisions thereof, such officer shall be 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.

§ 86. Amendment.) Section 16-20-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-20-04. Itemized Statements of Campaign Expenses Filed.) No sum of money shall be paid and no expenses shall be authorized or incurred by any candidate seeking nomination to any public office or position in this state in a primary election campaign or any candidate who has received the nomination to any public office or position and is a candidate in the

general election or any candidate in a special election in excess of five hundred dollars or fifteen percent of the annual salary of the office for which he is running, whichever is greater. Such amounts may be incurred for each election. Within fifteen days after a primary, general, or special election, a candidate for nomination or election to public office at such election shall file an itemized statement setting forth in detail all the moneys contributed, expended, or promised by him to aid and promote his nomination or election, or both, as the case may be, and for the election of his party candidates, and all existing unfulfilled promises of every character and all liabilities in force at the time of such statement. If no money or other valuable thing was paid or promised, he shall file a statement to that effect within fifteen days after the election at which he was a candidate. If a person was a candidate for senator of the United States, representative in Congress, a state office, or district judgeship, such statement shall be filed with the secretary of state. Candidates for the state legislature or for county offices shall file their statements with the county auditor of the county in which they reside. Any candidate who fails to file such statement shall be fined twenty-five dollars for every day on which he was in default, unless excused by the court.

§ 87. Amendment.) Section 16-20-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-20-08. Campaign Contributions by Corporations or Cooperative Corporations Prohibited.) No corporation or cooperative corporation doing business in this state, directly or indirectly, shall pay, use, offer, consent, or agree to pay or use, any money, property, or any thing of value:

1. To aid any political party, committee, or organization;
2. To aid any corporation or association organized or maintained for political purposes;
3. To aid any candidate for political office or for nomination for such office;
4. For any political purpose or the reimbursement or indemnification of any person for money or property so used; or
5. For the influencing of legislation of any kind.

If an officer, employee, agent, attorney, or other representative of a corporation or cooperative corporation makes any payments prohibited by this section out of corporate funds or otherwise violates the provisions of this section, it shall be

prima facie evidence of a violation by such corporation or cooperative corporation. No person shall solicit or receive such payment from any corporation.

§ 88. **Amendment.)** Section 16-20-17.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-20-17.1. Political Advertisements to Disclose Name of Sponsor.) Each and every political advertisement, whether on behalf of or in opposition to any candidate for public office, initiated or referred measure or constitutional amendment, and whether such advertisement shall be by newspaper, pamphlet or folder, display cards, signs, posters or billboard advertisements, or by any other public means, shall disclose at the bottom of same the names and addresses of the sponsors of such advertisement, and the names and addresses of the person, persons, associations, partnerships or corporations paying for such advertisement, except however, this section shall not apply to campaign buttons. At the close of every radio or television broadcast containing any advertising announcements or talk for or against any initiated or referred measure or constitutional amendment to be voted on by the people, there shall be announced at the close of said broadcast the names and addresses of the person, persons, associations, partnerships or corporations paying for such broadcast; provided that this section shall not apply to materials affirmatively promoting a candidate for president or vice president of the United States.

§ 89. **Amendment.)** Section 16-20-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-20-19. Electioneering on Election Day—Penalty.) Any person asking, soliciting, or in any manner trying to induce or persuade, any voter on an election day to vote or refrain from voting for any candidate or the candidates or ticket of any political party or organization, or any measure submitted to the people, shall be punished by a fine of not less than five dollars nor more than one hundred dollars for the first offense. For the second and each subsequent offense occurring on the same or different election days, he shall be punished by a fine as provided in this section, or by imprisonment in the county jail for not less than five days nor more than thirty days, or by both such fine and imprisonment. The display upon motor vehicles of adhesive signs which are not readily removable and which promote the candidacy of any individual, any political party, or a vote upon any measure and political advertisements promoting the

candidacy of any individual, political party, or a vote upon any measure, which are displayed on fixed permanent billboards, shall not, however, be deemed a violation of this section.

§ 90. Amendment.) Section 16-21-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-21-03. Locking and Examination of Voting Machines—Tally of Voting Machine Votes—Certification to County Judges.) Voting machines shall remain locked for ten days next following use at an election and as much longer as may be necessary or advisable because of any existing or threatened contest over the results of the election, except that they may be opened and all data and figures therein examined upon the order of any court of competent jurisdiction. A complete record of the tally of votes from each voting machine shall be made by the inspector of elections and the judges of election at the time such votes are tallied. This record shall agree in every respect with the registration books of election and the original reports of the total votes cast for each candidate or measure, and such record shall then be certified by the inspector of elections and the judges of elections and one of them delivered to the county judge at the same time as the ballots are delivered to him pursuant to section 16-13-09. The records may be opened and all data and figures therein examined upon the order of any court of competent jurisdiction in the event of any existing or threatened contest over the results of the election.

§ 91. Amendment.) Section 40-02-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-02-07. Notice of Election.) The board of county commissioners to which a petition is addressed under this chapter shall give notice of the election to be held to determine whether or not the municipality described in the petition shall be organized. Such notice shall be given by publication of the same in one issue of a newspaper published within the territory described in the petition, and such publication shall be made at least ten days prior to the date set for such election. If no newspaper is published within such territory, such notice shall be published in the official county newspaper.

§ 92. Amendment.) Section 40-02-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

***40-02-11. Division Into Districts or Wards.)** After the return of the election provided for in this chapter, if a majority of the votes cast at such election favored incorporation as a municipality, the board of county commissioners which ordered the election shall proceed to divide the municipality into districts or wards as follows:

1. If the territory has been incorporated as a city under the council form of government, it shall not be divided into wards unless it has more than six hundred inhabitants, and if it has more than six hundred inhabitants, one ward shall be formed for each two aldermen to which the city is entitled. In cities of more than fifteen thousand inhabitants, however, the number of wards shall be limited to seven originally, and such number may be increased thereafter as provided in this title;
2. If the territory has been incorporated as a city under the commission system of government, it shall be divided into not less than three nor more than seven wards.

Each district or ward shall be formed from contiguous territory, and all districts or wards shall be numbered consecutively and shall have, as nearly as practicable, the same number of inhabitants. After the election of aldermen or commissioners, as the case may be, it shall thereafter be the duty of the governing body of the city to form or establish wards and election districts pursuant to law.

§ 93. Amendment.) Section 40-04-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-04-02. Notice of Election.) Notice of an election to be held under this chapter shall be given by the executive officer of the municipality by publication in the official newspaper of the municipality for at least twenty days, or, if no newspaper is published therein, such notice shall be given in the official county newspaper.

§ 94. Amendment.) Section 40-08-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-08-08. Vacancies on City Council—How Filled.) If a vacancy occurs in the office of alderman by death, resignation, or otherwise, the city council may call a special city election to fill such vacancy for the unexpired term, or may, after fifteen days of the date of such vacancy appoint a person from the ward in which the alderman previously holding was elect-

***Note:** Section 110 of chapter 323, 1967 S.L., also amends section 40-02-11.

ed or appointed to fill such vacancy until the next city election, at which election the unexpired term shall be filled. Upon petition of five percent of the electors of such ward, as determined by the total number of votes cast in such ward in the last general election, the council shall call a special election to fill a vacancy occurring more than six months before the next city election, provided such petition has been submitted within fifteen days and before four o'clock p.m. of the fifteenth day of the date of such vacancy. If the petition is mailed it shall be in the possession of the council or its representative before four o'clock p.m. on the fifteenth day after the vacancy occurs.

§ 95. **Amendment.)** Section 40-08-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-08-09. Restrictions on Members of City Council.) No member of the city council shall:

1. Be eligible to any other office the salary of which is payable out of the city treasury;
2. Hold any other office under the city government; or
3. Hold a position of remuneration in the employment of the city.

§ 96.) Section 40-09-17 of the North Dakota Century Code is hereby created and enacted to read as follows:

40-09-17. Restrictions on Members of the Board of City Commissioners.) No member of the board of city commissioners shall:

1. Be eligible to any other office the salary of which is payable out of the city treasury;
2. Hold any other office under the city government; and
3. Hold a position of remuneration in the employment of the city.

§ 97. **Amendment.)** Section 40-12-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-12-08. Petition to Refer Ordinance—Suspension of Ordinance—Requirements of Petition.) An ordinance which has been adopted by the governing body of a municipality may be referred to the electors of the municipality by a petition protesting against such ordinance. Such petition shall be signed by electors of the municipality equal to at least ten percent of the entire vote cast for all candidates for executive officer of the municipality at the preceding regular municipal election, and shall be presented to the governing body of the municipal-

ity within ten days and before four o'clock p.m. on the tenth day after the ordinance described in the petition became effective. If a petition is mailed to the governing body of the municipality it shall be in the possession of such body before four o'clock p.m. on the tenth day after the ordinance became effective. Unless the ordinance protested against was passed by a four-fifths vote of the members of the governing body of the municipality for the immediate preservation of the public peace, health, and safety and contains a statement of its urgency, it shall be suspended upon the filing of the petition. The petition provided for in this section shall be in all respects in accordance with the provisions of sections 40-12-02, 40-12-03, and 40-12-04, except as to the number of signers required, and shall be examined and certified by the city auditor in all respects as provided in section 40-12-05.

§ 98. Amendment.) Section 40-21-02 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-21-02. Elections in Commission Cities—When Held—Notice—Polls—Judges and Inspectors.) Biennial municipal elections in cities operating under the commission system of government shall be held on the first Tuesday in April in each even-numbered year at such place or places as the board of city commissioners shall designate. Ten days' notice of the time and place of the election and of the offices to be filled at such election shall be given by the city auditor by publication in the official newspaper of the city or if the city has no official newspaper, by publication in the official county newspaper. The polls shall be opened and closed as provided by state law for the opening and closing of polls at primary, general and special elections. For all general city elections the board of city commissioners shall appoint one inspector for each precinct at least twenty-one days before the election is held, and two judges of election for each precinct at least ten days before the election is held. For special city elections the board of city commissioners shall appoint one inspector and two judges of election for each precinct in the city at least ten days before the election is held.

§ 99. Amendment.) Section 40-21-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

***40-21-07. Petition for Nomination of Elective Official in Municipalities—Signature Required—Contents.)** A candidate for any public office in an incorporated city may be nominated

***Note:** Section 137 of section 323, 1967 S.L., also amends section 40-21-07.

by filing with the city auditor, at least thirty days and before four o'clock p.m. on the thirtieth day prior to the holding of the election, a petition signed by not less than ten percent of the qualified electors residing within the ward or precinct in and for which such officer is to be elected, if the election is by wards, or a like percent of the voters of the city if the officer is elected at large, except that in cities operating under the commission system of government the required petition may be signed by the electors at large residing within such city. If a petition is mailed it shall be in the possession of the city auditor before four o'clock p.m. on the thirtieth day prior to the holding of the election. In no case shall more than three hundred signatures be required, and such signatures may be on separate sheets of paper. Each signer of such petition shall add to his name his mailing address.

§ 100. **Amendment.)** Section 40-21-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-21-09. Election Districts in Council Cities—Division and Consolidation by Ordinance — Ballots To Be Kept Separate by Wards.) Each city operating under the council form of government in which aldermen are elected at large shall constitute an election district or voting precinct, and in all other cities each ward shall constitute an election district or voting precinct. Whenever the number of electors in any two or more contiguous wards does not exceed one hundred as determined by the number of votes cast at the last city election, the council, by ordinance, may consolidate such two or more wards into one precinct for voting purposes. In any city containing less than four hundred electors as determined by the number of votes cast at the last city election, the council, by ordinance, may consolidate all the wards of such city into one precinct for voting purposes. An ordinance dividing or consolidating wards shall be passed and shall take effect before the time of giving notice of the election. Wards and precincts established under the provisions of this section shall constitute election districts for all state, county, city, and school elections. In city elections, separate ballot boxes and poll books shall be provided and kept for each precinct. The terms "wards", "precincts", and "election districts" shall have the same meaning except in the case where two or more wards are consolidated into one precinct for voting purposes or where one ward is divided into more than one precinct for voting purposes.

§ 101. **Amendment.)** Section 40-21-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

***40-21-12. Counting Ballots—Returns—Canvass of Returns by Governing Body of Municipality.)** The ballots cast in a municipal election shall be counted and the returns of the election prepared by the election board immediately after the closing of the polls. The ballots and the returns of the election shall be returned to the city auditor or village clerk, as the case may be, under seal within two days and before four o'clock p.m. on the second day after the election. Thereafter, the governing body of the municipality shall canvass the returns and declare the result of the election and cause a statement thereof to be entered in its books of minutes.

§ 102. Amendment.) Section 40-52-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-52-04. Changing Number and Boundaries of Wards and Precincts—Regulations Governing.) The number and boundaries of the wards and precincts in a city may be changed by an ordinance adopted by a majority vote of the members of the governing body. Such ordinance shall be introduced at a regular meeting of the board, and before final action is taken on the proposed ordinance, it shall be published in the official newspaper of the city once each week for four successive weeks. When the boundaries of wards are fixed by ordinance, the number of such wards and the boundaries thereof shall not be changed for a period of two years, except by adding thereto territory which is added to the city limits. The territory in a ward shall be contiguous and compact, and no ward having a population of less than one hundred residents shall be created. The terms "wards" and "precincts" shall have the meaning provided for in section 40-21-09.

§ 103. Amendment.) Subsection 5 of section 54-01-26 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

5. The residence of the husband is presumptively the residence of the wife except in the case of establishing residence for voting purposes;

§ 104. Amendment.) Section 58-04-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

58-04-05. Organization of Annual or Special Meetings.) The electors present at one o'clock p.m. of the day of the annual or special meeting shall be called to order by the township clerk, or if he is not present, the voters may elect by acclama-

***Note:** Section 140 of chapter 323, 1967 S.L., also amends section 40-21-12.

tion one of their number to act as chairman for the purpose of calling the meeting to order and to act as clerk after the selection of a moderator. The voters shall elect by acclamation three of their number as judges, and such judges shall be sworn and shall act as the judges of the qualifications of township electors. The electors shall proceed to choose one of their number to preside as moderator of the meeting. The clerk of the township if present, or in his absence, the clerk of the meeting, shall keep full minutes of its proceedings in which he shall enter at length every order, direction, rule, and regulation made by the meeting. The moderator shall close the meeting at five o'clock p.m. The positions of moderator, clerk, and the three judges shall be separate and distinct positions and no such positions shall be held by the same person. The moderator, clerk, and the three judges each shall be entitled to a salary of eight dollars per day for each day actually expended in the performance of their duties. Such salary shall be paid out of township funds made available for such purpose.

§ 105. Certain Questions Not To Be Voted Upon for Six Months.) Whenever at any election a bond issue, mill levy question, or question of reorganizing a school district, has failed to receive the required number of votes for approval by the electors, the matter shall not again be submitted to a vote until a period of at least six months shall have expired.

§ 106. Political Parties to Organize on District Basis.) Legally recognized political parties shall organize on a legislative district basis not later than the second Tuesday in November in the year 1967 and in the year 1968 and each two years thereafter. The manner of organizing shall substantially follow the provisions of chapter 16-17 of the North Dakota Century Code.

§ 107. Repeal.) Sections 16-01-13, 16-04-22, 16-04-23, 16-04-24, 16-05-07, 16-07-11, 16-10-07, 16-11-08, 16-13-22, 16-18-10, 16-18-13, 16-20-02, 16-20-03, and 16-20-21 of the North Dakota Century Code are hereby repealed.

Approved March 14, 1967.

CHAPTER 159

H. B. No. 736

(Lee, Mathiason, Boustead, Tollefson, Peterson(5))

PUBLICATION OF ELECTION AND LEGAL NOTICES

AN ACT

To amend and reenact section 16-06-02 of the North Dakota Century Code, relating to the publication of notice of any general election and section 46-05-03 of the North Dakota Century Code, relating to the publication of legal notices and providing the fees to be paid therefor.

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

§ 1. **Amendment.)** Section 16-06-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

***16-06-02. Notice of Election—Contents—Publication—Posting—Affidavit of Posting.)** Notice of any general election shall be published by the county auditor in the official county newspaper once each week for two consecutive weeks next preceding such election. Such notice shall be substantially as follows:

Notice is hereby given that on Tuesday, the day of, next, at the polling places in the various precincts in the county of an election will be held for the election of state, district, and county officers, which election will be opened at o'clock a.m. and will continue open until seven o'clock p.m. of that day.

Dated this day of, A.D., 19.....

(Signed).....
County Auditor

In addition to the publication required in this section, the county auditor shall publish for two consecutive weeks prior to the election in the official county newspaper and if no newspaper is published in the county in a newspaper published in an adjoining county in the state, a copy of the sample ballot of the general election, as arranged by order and direction of the state printer. The form of the ballot so published shall conform in all respects to the form prescribed for the sample

***Note:** Section 29 of chapter 158, 1967 S.L., also amends section 16-06-02.

general election ballot and the makeup and general form shall conform to that prescribed for the said sample ballot, and shall be printed in six point type. The lineage of ballots so published shall be determined by multiplying each column inch thereof by twelve, space occupied by constitutional amendments, referred or initiated measures treated as straight matter and candidates sample ballots as two-column tabulated matter.

§ 2. **Amendment.)** Section 46-05-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

46-05-03. Legal Notices—Fees.) The fees to be paid to newspapers for the publication of:

1. Any notice or publication required to be published by the board of county commissioners or any county officer;
2. Any summons, citation, notice, or other document, proceedings, or process in an action or proceedings in any court of the state, which is required by law to be published;
3. Any publication required to be published by any state officer, elected or appointive;
4. Any notice of foreclosure of a real estate mortgage, or a chattel mortgage or other lien foreclosed by advertisement;
5. Any notice or publication required to be published by any city, village, township, school district, or other political subdivision of the state, or by any officer thereof; and
6. Any legal notice and legal publication of whatever kind or character required by law to be published,

shall be sixteen cents per counted line of nonpareil or six point type for the first insertion and nine cents per line of nonpareil or six point type for each subsequent insertion, or twelve cents per counted line of brevier or eight point type for the first insertion and seven cents per line of brevier or eight point type for each subsequent insertion. All lines containing tabulated matter, leader work, or work containing one column of figures shall be figured at one and one-half times the rate for straight matter on first publication, and all tabulated matter with two or more columns of figures shall be computed at double the rate for straight matter on first publication. A column shall be not less than eleven nor more than thirteen picas in width. Wherever possible, all such legal notices and publications shall be set in single column.

Approved March 15, 1967.

CHAPTER 160

S. B. No. 130
(Chesrown, Longmire)

MEETINGS WITH ELECTION INSPECTORS

AN ACT

To amend and reenact section 16-10-17 of the North Dakota Century Code, relating to state's attorney meetings with election inspectors.

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 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 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.

Approved February 25, 1967.

***Note:** Section 50 of chapter 158, 1967 S.L., also amends section 16-10-17.

CHAPTER 161

S. B. No. 85
(Holand)

KEEPING OF BALLOTS BY COUNTY JUDGE

AN ACT

To amend and reenact section 16-13-11 of the North Dakota Century Code, relating to the keeping of ballots by the county judge.

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

§ 1. **Amendment.)** Section 16-13-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-13-11. County Judge to Keep Ballots Forty-Five Days—Exception—Use of Ballots as Evidence.) Immediately upon receiving the ballots as provided in section 16-13-09, the county judge shall give receipt therefor to said judges of election and shall place such ballots properly arranged in the order of the precinct number in boxes which shall be securely locked. Such boxes shall be placed in a fireproof vault and shall be kept securely for forty-five days. They shall not be opened nor inspected, except upon the order of a court, in case of a contested election, or when it shall be necessary to produce them at a trial for any offense committed at an election. At the end of forty-five days after the election, upon determination by the county judge that no contest is pending, such ballots shall be destroyed, except that if any contest of the election of any officer voted for at such election or a prosecution under the provisions of this title shall be pending at the expiration of such time, the said ballots shall not be destroyed until such contest or prosecution is finally determined. Such ballots, returned to the county judge as provided in this section shall be received in evidence without laying further foundation.

Approved February 15, 1967.

FIRES

CHAPTER 162

H. B. No. 757
(Boustead, Brown, Dick)

TRANSFER OF STATE FIRE MARSHAL DEPARTMENT

AN ACT

To amend and reenact sections 18-01-01, 18-01-04, 18-01-05, 26-24-03 and 54-12-01 of the North Dakota Century Code, and to repeal subsection 10 of section 26-01-02 of the North Dakota Century Code, providing for the transfer of the office of state fire marshal from the insurance commissioner to the attorney general, and providing for its operation in conjunction with the bureau of criminal identification and apprehension.

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

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

18-01-01. Appointment of Fire Marshal—Appointment and Salaries of Deputies—Employment of Assistants.) The attorney general shall appoint the state fire marshal, and fix his salary within the legislative appropriation therefor. The state fire marshal shall have the management, control and supervision of the fire marshal department and shall perform the duties imposed on the state fire marshal by the provisions of this chapter.

The state fire marshal shall appoint and fix the salaries of such deputies and other employees as he deems necessary to carry out the provisions of this chapter within the limits of legislative appropriations therefor.

Before entering upon their duties, the state fire marshal and each deputy appointed under this section shall give a bond to the state of North Dakota in the penal sum of five thousand dollars, conditioned for the faithful discharge of his duties and he shall take and subscribe the constitutional oath of office and file the same in the office of the secretary of state.

The fire marshal department shall be operated in conjunction with the bureau of criminal identification and apprehension, but shall have a separate budget appropriated by the legislature from the general fund.

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

18-01-04. Rules for Prevention of Fires To Be Issued.) The state fire marshal, under the supervision of the attorney general, shall make rules not inconsistent with the provisions of this code for the prevention of fires, and shall explain such rules fully to all state, county and municipal boards and officers. All such rules shall be posted in such conspicuous places as will tend to be of the greatest benefit to the residents of the state, and when called upon, the state fire marshal or one of his assistants shall appear before any public board and explain the benefits derived from compliance with such rules and regulations in the reduction of hazardous conditions and loss by fire.

§ 3. Amendment.) Section 18-01-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

18-01-05. Insurance Companies to Report Fire Losses to State Fire Marshal.) Each insurer authorized to transact fire insurance business in this state is hereby required to report to the state fire marshal, either directly or through an approved agency, fire losses on property insured in the company, giving the name of the insured, the date of the fire, the amount of loss, the loss paid, the character of the property destroyed or damaged, and the supposed cause of the fire. Provided, however, the state fire marshal may waive the reporting of such losses which are deemed unimportant because of the small amount involved to the end that a saving in time and expense will result. This report shall be mailed to the state fire marshal as soon as possible after notice of loss is received by the company. This report shall be in addition to, and not in lieu of, any report the company may be required to make by any law of this state to the commissioner of insurance.

§ 4. Amendment.) Section 26-24-03 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-24-03. Employment of Assistants — Expenditures from Fund.) To carry out the provisions of this chapter, the commissioner may utilize any information on file in the fire marshal department and any of the employees in the department of insurance, and he may employ such assistants and incur such expense as may be necessary, but all expenditures made for such purposes shall remain within the limits of appropriations made therefor by the legislative assembly from time to time and shall be paid out of the fund upon

warrants prepared by the department of accounts and purchases drawn upon the state treasurer after the approval of vouchers by the state auditing board.

§ 5. **Amendment.**) Subsection 16 of section 54-12-01 of the 1965 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

54-12-01. Attorney General—Duties.) The attorney general shall:

16. Appoint the state fire marshal and supervise the operation of the state fire marshal department.

§ 6. **Repeal.**) Subsection 10 of section 26-01-02 of the North Dakota Century Code is hereby repealed.

Approved February 28, 1967.

CHAPTER 163

H. B. No. 749
(Kelsch)

DISTRIBUTION OF INSURANCE TAXES

AN ACT

To amend and reenact sections 18-04-05 and 18-04-07 of the North Dakota Century Code, relating to the distribution of insurance taxes to fire departments and to the disbursement of these funds by municipalities and providing an appropriation.

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

§ 1. **Amendment.**) Section 18-04-05 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

18-04-05. Amount Due Cities or Rural Fire Departments—Certificate of Commissioner of Insurance to Department of Accounts and Purchases.) The commissioner of insurance shall compute the amounts due to the several cities, townships, or fire protection districts entitled to benefits under this chapter, and shall certify such amounts to the department of accounts and purchases on or before June first of each year, in the following manner:

1. To cities not within the boundaries of a fire protection district, a sum equal to two and one-fourth percent of the premiums received by insurance companies on fire

and extended coverage insurance policies issued on property in such cities.

2. To each city fire department performing service outside of its incorporated limits, the sum of one hundred dollars.
3. To each rural fire department or district organized within the provisions of this title, the sum of two hundred dollars per year plus two and one-fourth percent of the fire and extended coverage insurance premiums paid in any city, whether incorporated or not, and encompassed in a fire district.

There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated as a standing and continuing appropriation, such sums as may be necessary to make payments as provided in this section.

§ 2. Amendment.) Section 18-04-07 of the North Dakota Century Code is hereby amended by the creation of subsection 3.

3. For the purpose of this section, a non-paid or volunteer fire department shall be any department where less than fifty percent of the personnel of said department are full-time regularly salaried firemen. A volunteer fireman shall be a fireman who does not receive a regular monthly salary though he may receive compensation for each fire call he responds to.

Approved March 14, 1967.

CHAPTER 164

H. B. No. 606
(Kelsch)

RURAL FIRE PROTECTION DISTRICTS

AN ACT

To amend and reenact subsection 8 of section 18-10-06 and section 18-10-08 of the North Dakota Century Code, relating to the powers of boards of directors of rural fire protection districts and to the limitation of indebtedness of such districts.

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

§ 1. Amendment.) Subsection 8 of section 18-10-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

8. To organize, establish, equip, maintain and supervise a fire department or company to serve the district;

§ 2. Amendment.) Section 18-10-08 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

18-10-08. Indebtedness of District Limited.) No district shall become indebted for an amount that may not be payable from ten annual maximum tax levies as authorized by section 18-10-07. Within the limits herein authorized, the district shall have power to borrow money at a rate not in excess of six percent per annum and to issue appropriate evidence of indebtedness thereof.

Approved February 28, 1967.

CHAPTER 165

H. B. No. 939
(Committee on Delayed Bills)

FIREMEN'S TAX LEVY FORMULA

AN ACT

To amend and reenact section 18-11-10 of the North Dakota Century Code, relating to the tax levy formula for alternate firemen's associations.

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

§ 1. **Amendment.**) Section 18-11-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

18-11-10. City Shall Make Additional Levy.) At the time the tax levies for the support of the city are made, and in addition thereto, the governing body of any city which shall have adopted this plan, shall levy a tax on all taxable property within the city sufficient in amount to equal a minimum of eight percent of the current annual salary of a first class fireman as last determined and approved by the governing body of the city, for each active member of the fire department relief association at the time the levy is made. This tax shall be levied notwithstanding the city maximum annual tax levy for all purposes as limited by statute. This tax is in addition to the tax levy as so limited.

Approved March 6, 1967.

FOODS, DRUGS, OILS AND COMPOUNDS

CHAPTER 166

H. B. No. 548

(Bier, Boustead, Giffey, Glaspey, Haugland, Mueller, Winge)
(From LRC Study)

STATE LABORATORY POWERS AND DUTIES

AN ACT

To amend and reenact sections 19-01-02 and 19-08-04 of the North Dakota Century Code, relating to the powers and duties of the state laboratories commission, and to the inspection and chemical analysis of beverages.

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

§ 1. **Amendment.)** Section 19-01-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-01-02. State Laboratories Department — State Laboratories Commission — Members, Duties, Meetings, Quorum.) The state laboratories department shall be maintained as one of the departments of the state. The management, control, and supervision of such department shall be placed in the state laboratories commission, which shall be composed of the governor, who shall act as chairman thereof, the state treasurer, and the attorney general. It shall meet whenever necessary, and at least once a month. The commission shall adopt such rules and regulations as may be necessary for the full and complete enforcement of the regulatory laws of the state under its jurisdiction. The commission shall also establish, and may alter as the need arises, a fee schedule for private samples that are submitted to the department for laboratory analysis. A majority of the members of the commission shall constitute a quorum for the transaction of business.

§ 2. **Amendment.)** Section 19-08-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-08-04. License Required.) The department may, in its discretion, require manufacturers, importers, jobbers, or other retailers to furnish suitable samples to the department for inspection and chemical analysis. If any beverage does not meet all requirements of law, the department shall refuse to

license it and shall prevent its sale. The license fee shall be paid annually during the month of December or prior to placing the beverage on the market. The license shall expire December thirty-first next following its issuance. If the manufacturer or jobber secures a license for a product, subsequent sellers, including retailers and dispensers, need not again secure a license for the same product, and no dispenser shall be required to secure a license for a product prepared for his own use from a product already licensed.

Approved February 22, 1967.

CHAPTER 167

S. B. No. 300
(Christensen)

STATE LABORATORIES VOUCHERS

AN ACT

To amend and reenact section 19-01-08 of the North Dakota Century Code, relating to the state laboratories vouchers.

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

§ 1. Amendment.) Section 19-01-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-01-08. Expenses—How Paid.) Vouchers for all salaries and expenses incurred by the director, assistant director, and employees of the department in performing their respective duties, when approved by the commission or director, shall be forwarded to the state auditing board monthly for audit and approval. When the vouchers are audited and approved by such board, they shall be certified to the department of accounts and purchases, which shall prepare, and the state auditor shall sign, warrants upon the state treasurer for the salaries and expenses specifying that the warrants are to be paid from the general fund out of appropriations made for the department by the legislative assembly. The state treasurer shall pay the expenses in accordance with such direction.

Approved March 4, 1967.

CHAPTER 168

S. B. No. 40

(Christensen, Morgan, Ringsak)
(From LRC Study)

FOOD, DRUG, AND COSMETIC ACT

AN ACT

To create a method of regulating foods, drugs, and cosmetics, and to repeal sections 19-02-01, 19-02-02, 19-02-03, 19-02-04, 19-02-05, 19-02-06, 19-02-07, 19-02-08, 19-02-11, 19-02-12, 19-02-14.1, 19-02-25, 19-02-26, 19-02-27, 19-02-28, and 19-02-29 and chapter 19-09 of the North Dakota Century Code, relating to foods, drugs, and cosmetics, and providing a penalty.

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

§ 1. **Title.)** This Act may be cited as the "North Dakota Food, Drug, and Cosmetic Act".

§ 2. **Definitions.)** For the purpose of this Act:

1. "Department" means the state laboratories department.
2. "Person" includes individual, partnership, corporation, and association.
3. "Food" means
 - a. Articles used for food or drink for man or other animals;
 - b. Chewing gum;
 - c. Articles used for components of any such article.
4. "Drug" means
 - a. Articles recognized in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, or any supplement to any of them;
 - b. Articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals;
 - c. Articles (other than food) intended to affect the structure or any function of the body of man or other animals;
 - d. Articles intended for use as a component of any article specified in subdivisions a, b, or c, but does not include devices or their components, parts, or accessories.

5. "Device" (except when used in subsection 11 of this section and in subsection 10 of section 3, subsection 6 of section 11, subsections 3 and 16 of section 15, and subsection 3 of section 19) means instruments, apparatus and contrivances, including their components, parts, and accessories, intended
 - a. For use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals;
 - b. To affect the structure or any function of the body of man or other animals.
6. "Cosmetic" means
 - a. Articles intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance;
 - b. Articles intended for use as a component of any such articles, except that such term shall not include soap.
7. "Official compendium" means the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, official national formulary, or any supplement to any of them.
8. "Label" means a display of written, printed or graphic matter upon the immediate container of any article; and a requirement made by or under authority of this Act that any word, statement, or other information appearing 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, of the retail package of such article, or is easily legible through the outside container or wrapper.
9. "Immediate container" does not include package liners.
10. "Labeling" means all labels and other written, printed, or graphic matter
 - a. Upon an article or any of its containers or wrappers; or
 - b. Accompanying such article.
11. If an article is alleged to be misbranded because the labeling is misleading, or if an advertisement is alleged to be false because it is misleading, then in determining whether the labeling or advertisement is misleading, there shall be taken into account (among other things)

not only representations made or suggested by statement, word, design, device, sound, or in any combination thereof, but also the extent to which the labeling or advertisement fails to reveal facts material in the light of such representations or material with respect to consequences which may result from the use of the article to which the labeling or advertisement relates under the conditions of use prescribed in the labeling or advertisement thereof or under such conditions of use as are customary or usual.

12. "Advertisement" means all representations disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of food, drugs, devices, or cosmetics.
13. The representation of a drug, in its labeling or advertisement, as an antiseptic shall be considered to be a representation that it is a germicide, except in the case of a drug purporting to be, or represented as, an antiseptic for inhibitory use as a wet dressing, ointment, dusting powder, or such other use as involves prolonged contact with the body.
14. "New drug" means
 - a. Any drug the composition of which is such that such drug is not generally recognized among experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs, as safe and effective for use under the conditions prescribed, recommended, or suggested in the labeling thereof; or
 - b. Any drug the composition of which is such that such drug, as a result of investigations to determine its safety and effectiveness for use under such conditions, has become so recognized, but which has not, otherwise than in such investigations, been used to a material extent or for a material time under such conditions.
15. "Contaminated with filth" applies to any food, drug, device, or cosmetic not securely protected from dust, dirt, and as far as may be necessary by all reasonable means, from all foreign or injurious contaminations.
16. The provisions of this Act regarding the selling of food, drugs, devices, or cosmetics, shall be considered to include the manufacture, production, processing, packing, exposure, offer, possession, and holding of any such article for sale; and the sale, dispensing, and giving of

any such article, and the supplying or applying of any such articles in the conduct of any food, drug, or cosmetic establishment.

17. "Pesticide chemical" means any substance which, alone, in chemical combination, or in formulation with one or more other substances is an "economic poison" within the meaning of chapter 19-18 of the North Dakota Century Code as now enacted or as hereafter amended, and which is used in the production, storage, or transportation of raw agricultural commodities.
18. "Raw agricultural commodity" means any food in its raw or natural state, including all fruits that are washed, colored, or otherwise treated in their unpeeled natural form prior to marketing.
19. "Food additive" means any substance, the intended use of which results or may be reasonably expected to result, directly or indirectly, in its becoming a component or otherwise affecting the characteristics of any food (including any substance intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food; and including any source of radiation intended for any such use) if such substance is not generally recognized, among experts qualified by scientific training and experience to evaluate its safety, as having been adequately shown through scientific procedures (or, in the case of a substance used in a food prior to January 1, 1958, through either scientific procedures or experience based on common use in food) to be safe under the conditions of its intended use, except that such term does not include
 - a. A pesticide chemical in or on a raw agricultural commodity; or
 - b. A pesticide chemical to the extent that it is intended for use or is used in the production, storage, or transportation of any raw agricultural commodity; or
 - c. A color additive; or
 - d. Any substance used in accordance with a sanction or approval granted prior to the enactment of the Food Additives Amendment of 1958, pursuant to the Federal Act; the Poultry Products Inspection Act (21 U.S.C. 451 and the following); or the Meat Inspection Act of March 4, 1907 (34 Stat. 1260), as amended and extended (21 U.S.C. 71 and the following).

20. "Color additive" means a material which
 - a. Is a dye, pigment, or other substance made by a process of synthesis or similar artifice, or extracted, isolated, or otherwise derived, with or without intermediate or final change of identity from a vegetable, animal, mineral, or other source; or
 - b. When added or applied to a food, drug, or cosmetic, or to the human body or any part thereof, is capable (alone or through reaction with other substance) of imparting color thereto, except that such term does not include any material which has been or hereafter is exempted under the Federal Act.
21. "Color" includes black, white, and intermediate grays.
22. "Federal Act" means the Federal Food, Drug, and Cosmetic Act, as amended (Title 21 U.S.C. 301 et seq).

Nothing in subsection 20 of section 2 of this Act shall be construed to apply to any pesticide chemical, soil or plant nutrient, or other agricultural chemical solely because of its effect in aiding, retarding, or otherwise affecting, directly or indirectly the growth or other natural physiological process of produce of the soil and thereby affecting its color, whether before or after harvest.

§ 3. Prohibited Acts.) The following acts and the causing thereof within the state of North Dakota are hereby prohibited:

1. The manufacture, sale, or delivery, holding or offering for sale of any food, drug, device, or cosmetic that is adulterated or misbranded.
2. The adulteration or misbranding of any food, drug, device or cosmetic.
3. The receipt in commerce of any food, drug, device, or cosmetic that is adulterated or misbranded, and the delivery or proffered delivery thereof for pay or otherwise.
4. The sale, delivery for sale, holding for sale, or offering for sale of any article in violation of sections 12 or 17 of this Act.
5. The dissemination of any false advertisement.
6. The refusal to permit entry or inspection, or to permit the taking of a sample, as authorized by section 22 of this Act.

7. The giving of a guaranty or undertaking which guaranty or undertaking is false, except by a person who relied on a guaranty or undertaking to the same effect signed by, and containing the name and address of the person residing in the state of North Dakota from whom he received in good faith the food, drug, device, or cosmetic.
8. The removal or disposal of a detained or embargoed article in violation of section 6 of this Act.
9. The alteration, mutilation, destruction, obliteration, or removal of the whole or any part of the labeling of, or the doing of any other act with respect to a food, drug, device, or cosmetic, if such act is done while such article is held for sale and results in such article being adulterated or misbranded.
10. Forging, counterfeiting, simulating, or falsely representing, or without proper authority using any mark, stamp, tag, label, or other identification device authorized or required by regulations promulgated under the provisions of this Act or of the Federal Act.
11. The using, on the labeling of any drug or in any advertisement relating to such drug, or any representation or suggestion that an application with respect to such drug is effective under section 17 of this Act, or that such drug complies with the provisions of such section.
12. In the case of a prescription drug distributed or offered for sale in this state, the failure of the manufacturer, packer, or distributor thereof to maintain for transmittal, or to transmit, to any practitioner licensed by applicable law to administer such drug who makes written request for information as to such drug, true and correct copies of all printed matter which is required to be included in any package in which that drug is distributed or sold, or such other printed matter as is approved under the Federal Act. Nothing in this paragraph shall be construed to exempt any person from any labeling requirement imposed by or under other provisions of this Act.
13. Placing or causing to be placed upon any drug or device or container thereof, with intent to defraud, the trade name or other identifying mark, or imprint of another or any likeness of any of the foregoing; selling, dispensing, disposing of or causing to be sold, dispensed or disposed of or concealing or keeping in possession, control or custody, with intent to sell, dispense or dispose of, any drug, device or any container thereof, with knowledge that the trade name or other identifying mark or

imprint of another or any likeness of any of the foregoing has been placed thereon in a manner prohibited by this subsection; or making, selling, disposing of or causing to be made, sold or disposed of or keeping in possession, control or custody, or concealing, with intent to defraud, any punch, die, plate, or other thing designed to print, imprint, or reproduce that trade name or other identifying mark or imprint of another or any likeness of any of the foregoing upon any drug, device or container thereof.

14. Dispensing or causing to be dispensed a different drug or brand of drug in place of the drug or brand of drug ordered or prescribed without the express permission in each case of the person ordering or prescribing.

§ 4. Injunction Proceedings.) In addition to the remedies hereinafter provided the department is hereby authorized to apply to the district court of Burleigh County for, and such court shall have jurisdiction upon hearing and for cause shown, to grant a temporary or permanent injunction restraining any person from violating any provision of section 3 of this Act, irrespective of whether or not there exists an adequate remedy at law.

§ 5. Penalties and Guarantee.) 1. Any person who violates any of the provisions of section 3 of this Act shall be guilty of a misdemeanor and shall on conviction thereof be subject to a fine of not less than twenty-five 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; but if the violation is committed after a conviction of such person under this section has become final, such person shall be subject to a fine of not less than one hundred dollars nor more than five hundred dollars, or by imprisonment in the county jail for not less than thirty days nor more than ninety days, or by both such fine and imprisonment.

2. No person shall be subject to the penalties of subsection 1 of this section, for having violated subsections 1 or 3 of section 3 of this Act if he established a guaranty or undertaking signed by, and containing the name and address of, the person residing in the state of North Dakota from whom he received in good faith the article, to the effect that such article is not adulterated or misbranded within the meaning of this Act, designating this Act.

3. No publisher, radio-broadcast licensee, or agency or medium for the dissemination of an advertisement, except the manufacturer, packer, distributor, or seller of the article to

which a false advertisement relates, shall be liable under this section by reason of the dissemination by him of such false advertisement, unless he has refused, on the request of the department to furnish the department the name and post office address of the manufacturer, packer, distributor, seller, or advertising agency, residing in the state of North Dakota who caused him to disseminate such advertisement.

§ 6. Seizure.) 1. Whenever a duly authorized agent of the department finds or has probable cause to believe, that any food, drug, device, or cosmetic is adulterated, or so misbranded as to be dangerous or fraudulent, within the meaning of this Act, he shall affix to such article a tag or other appropriate marking, giving notice that such article is, or is suspected of being, adulterated or misbranded and has been detained or embargoed, and warning all persons not to remove or dispose of such article by sale or otherwise until permission for removal or disposal is given by such agent or the court. It shall be unlawful for any person to remove or dispose of such detained or embargoed article by sale or otherwise without such permission.

2. When an article detained or embargoed under subsection 1 of this section has been found by such agent to be adulterated, or misbranded, he shall petition the judge of the district court in the county in which the article is detained or embargoed for a libel for condemnation of such article. When such agent has found that an article so detained or embargoed is not adulterated or misbranded, he shall remove the tag or other marking.

3. If the court finds that a detained or embargoed article is adulterated or misbranded, such article shall, after entry of the decree, be destroyed at the expense of the claimant thereof, under the supervision of such agent, and all court costs and fees, and storage and other proper expenses, shall be taxed against the claimant of such article or his agent; provided, that when the adulteration or misbranding can be corrected by proper labeling or processing of the article, the court, after entry of the decrees and after such costs, fees, and expenses have been paid and a good and sufficient bond, conditioned that such article shall be so labeled or processed, has been executed, may by order direct that such article be delivered to claimant thereof for such labeling or processing under the supervision of an agent of the department. The expense of such supervision shall be paid by claimant. Such shall be returned to the claimant of the article on the representation to the court by the department that the article is no longer in violation of this Act, and that the expenses of such supervision have been paid.

4. Whenever the state laboratories director or any of his authorized agents shall find in any room, building, vehicle of transportation or other structure, any meat, sea food, poultry, vegetable, fruit or other perishable articles which are unsound, or contain any filthy, decomposed or putrid substance, or that may be poisonous or deleterious to health or otherwise unsafe, the same being hereby declared to be a nuisance, the state laboratories director or his authorized agent, shall forthwith condemn or destroy the same, or in any other manner render the same unsaleable as human food.

§ 7. Prosecutions—State's Attorney.) It shall be the duty of each state's attorney, to whom the department reports any violation of this Act, to cause appropriate proceedings to be instituted in the proper courts without delay and to be prosecuted in the manner required by law. Before any violation of this Act is reported to any such attorney for the institution of a criminal proceeding, the person against whom such proceeding is contemplated shall be given appropriate notice and an opportunity to present his views before the department or its designated agent, either orally or in writing, in person, or by attorney, with regard to such contemplated proceeding.

§ 8. Minor Violations.) Nothing in this Act shall be construed as requiring the state laboratories director to report for the institution of proceedings under this Act, minor violations of this Act, whenever the state laboratories director believes that the public interest will be adequately served in the circumstances by a suitable written notice or warning.

§ 9. Food—Definitions and Standards.) Whenever in the judgment of the department such action will promote honesty and fair dealing in the interest of consumers, the department shall promulgate regulations fixing and establishing for any food or class of food a reasonable definition and standard of identity, and/or reasonable standard of quality and/or fill of container. In prescribing a definition and standard of identity for any food or class of food in which optional ingredients are permitted, the department shall, for the purpose of promoting honesty and fair dealing in the interest of consumers, designate the optional ingredients which shall be named on the label. The definitions and standards so promulgated shall conform so far as practicable to the definitions and standards promulgated under authority of the Federal Act.

§ 10. Food—Adulteration Defined.) A food shall be deemed to be adulterated for any of the following reasons:

1. If it bears or contains any poisonous or deleterious substance which may render it injurious to health; but in case the substance is not an added substance such food

shall not be considered adulterated under this clause if the quantity of such substance in such food does not ordinarily render it injurious to health.

2. If it bears or contains any added poisonous or added deleterious substance, other than one which is
 - a. A pesticide chemical in or on a raw agricultural commodity; or
 - b. A food additive; or
 - c. A color additive which is unsafe within the meaning of subsection 1 of section 13 of this Act.
3. If it is a raw agricultural commodity and it bears or contains a pesticide chemical which is unsafe within the meaning of subsection 1 of section 13 of this Act.
4. If it is or bears or contains, any food additive which is unsafe within the meaning of subsection 1 of section 13 of this Act.

Provided that where a pesticide chemical has been used in or on a raw agricultural commodity in conformity with an exemption granted or tolerance prescribed under subsection 1 of section 13 of this Act, and such raw agricultural commodity has been subjected to processing such as canning, cooking, freezing, dehydrating, or milling, the residue of such pesticide chemical remaining in or on such processed food shall not, notwithstanding the provisions of section 13 of this Act and subsection 4 of this section, be deemed unsafe if such residue in or on the raw agricultural commodity has been removed to the extent possible in good manufacturing practice, and the concentration of such residue in the processed food when ready-to-eat, is not greater than the tolerance prescribed for the raw agricultural commodity.

5. If it consists in whole or in part of a diseased, contaminated, filthy, putrid, or decomposed substance, or if it is otherwise unfit for food.
6. If it has been produced, prepared, packed, or held under unsanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered diseased, unwholesome, or injurious to health.
7. If it is the product of a diseased animal or an animal which has died otherwise than by slaughter, or that has been fed upon the uncooked offal from a slaughterhouse.
8. If its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health.

9. If any valuable constituent has been in whole or in part omitted or abstracted therefrom.
10. If any substance has been substituted wholly or in part therefor.
11. If damage or inferiority has been concealed in any manner.
12. If any substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight, or reduce its quality or strength or make it appear better or of greater value than it is.
13. If it is confectionery and it bears or contains any alcohol or nonnutritive article or substance except harmless coloring, harmless flavoring, harmless resinous glaze not in excess of four-tenths of one percent, harmless natural wax not in excess of four-tenths of one percent, harmless natural gum, and pectin; provided, that this subsection shall not apply to any confectionery by reason of its containing less than one-half of one percent by volume of alcohol derived solely from the use of flavoring extracts, or to any chewing gum by reason of its containing harmless nonnutritive masticatory substances.
14. If it is or bears or contains any color additive which is unsafe within the meaning of subsection 1 of section 13 of this Act.

§ 11. Food—Misbranding Defined.) A food shall be deemed to be misbranded:

1. If its labeling is false or misleading in any particular.
2. If it is offered for sale under the name of another food.
3. If it is an imitation of another food for which a definition and standard of identity has been prescribed by regulations as provided by section 9 of this Act or if it is an imitation of another food that is not subject to subsection 7 of this section, unless its label bears in type of uniform size and prominence, the word, imitation, and, immediately thereafter, the name of the food imitated.
4. If its container is so made, formed, or filled as to be misleading.
5. If in package form, unless it bears a label containing
 - a. The name and place of business of the manufacturer, packer, or distributor;
 - b. An accurate statement of the quantity of the contents in terms of weight, measure, or numerical count;

Provided, that under subdivision 2 of this subsection reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the department.

6. If any word, statement, or other information required by or under authority of this Act to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.
7. If it purports to be or is represented as a food for which a definition and standard of identity has been prescribed by regulations as provided by section 9 of this Act unless it conforms to such definition and standard, its label bears the name of the food specified in the definition and standard, and, insofar as may be required by such regulations, the common names of optional ingredients (other than spices, flavoring, and coloring) present in such food.
8. If it purports to be or is represented as
 - a. A food for which a standard of quality has been prescribed by regulations as provided by section 9 of this Act and its quality falls below such standard unless its label bears, in such manner and form as such regulations specify, a statement that it falls below such standard; or
 - b. A food for which a standard or standards of fill of container have been prescribed by regulation as provided by section 9 of this Act, and it falls below the standard of fill of container applicable thereto, unless its label bears, in such manner and form as such regulations specify, a statement that it falls below such standard.
9. If it is not subject to the provisions of subsection 7 of section 11 of this Act, unless it bears labeling clearly giving
 - a. The common or usual name of the food, if any there be;
 - b. The common or usual name of each such ingredient, in case it is fabricated from two or more ingredients, except that spices, flavorings, and colorings, other than those sold as such, may be designated as spices, flavorings, and colorings without naming each;

Provided, that to the extent that compliance with the requirements of subdivision b of subsection 9 of this Act is impractical or results in deception or unfair competition, exemptions shall be established by regulations promulgated by the department and, provided further, that the requirements of subdivision b of subsection 9 of this Act shall not apply to food products which are packaged at the direction of purchasers at retail at the time of sale, the ingredients of which are disclosed to the purchasers by other means in accordance with regulations promulgated by the department.

10. If it purports to be or is represented for special dietary uses, unless its label bears such information concerning its vitamin, mineral, and other dietary properties as the department determines to be, and by regulations prescribes as, necessary in order to fully inform purchasers as to its value for such uses.
11. If it bears or contains any artificial flavoring, artificial coloring, or chemical preservative, unless it bears labeling stating that fact; provided, that the extent that compliance with the requirements of this subsection is impracticable, exemptions shall be established by regulations promulgated by the department.
12. If it is a product intended as an ingredient of another food and when used according to the directions of the purveyor will result in the final food product being adulterated or misbranded.
13. If it is a color additive unless its packaging and labeling are in conformity with such packaging and labeling requirements applicable to such color additive prescribed under the provisions of the Federal Act.

§ 12. Emergency Permit Control.) Whenever the department finds after investigation that the distribution in the state of North Dakota of any class of food may, by reason of contamination with micro-organisms during manufacture, processing, or packing thereof in any locality, be injurious to health and that such injurious nature cannot be adequately determined after such articles have entered commerce, it then, and in such case only, shall promulgate regulations providing for the issuance, to manufacturers, processors, or packers of such class of food in such locality, of permits to which shall be attached such conditions governing the manufacture, processing, or packaging, or packing of such class of food, for such temporary period of time, as may be necessary to protect the public health; and after the effective date of such regulations, and during such temporary period, no person shall introduce or deliver for introduction into commerce any such food manu-

factured, processed, or packed by any such manufacturer, processor, or packer unless such manufacturer, processor, or packer holds a permit issued by the department as provided by such regulations.

The state laboratories director is authorized to suspend immediately upon notice any permit issued under authority of this section if it is found that any of the conditions of the permit have been violated. The holder of a permit so suspended shall be privileged at any time to apply for the reinstatement of such permit, and the state laboratories director shall, immediately after prompt hearing and inspection of the establishment, reinstate such permit if it is found that adequate measures have been taken to comply with and maintain the conditions of the permit, as originally issued, or as amended.

Any officer or employee duly designated by the state laboratories director shall have access to any factory or establishment, the operator of which holds a permit from the department for the purpose of ascertaining whether or not the conditions of the permit are being complied with, and denial of access for such inspection shall be grounds for suspension of the permit until such access is freely given by the operator.

§ 13. Food—Tolerances for Added Poisonous Ingredients.)

1. Any added poisonous or deleterious substance, any food additive, any pesticide chemical in or on a raw agricultural commodity, or any color additive, shall with respect to any particular use or intended use be deemed unsafe for the purpose of application of subsection 2 of section 10 of this Act with respect to any food, subsection 1 of section 14 of this Act with respect to any drug or device, or subsection 1 of section 18 of this Act with respect to any cosmetic, unless there is in effect a regulation pursuant to subsection 2 of this section limiting the quantity of such substance, and the use or intended use of such substance conform to the terms prescribed by such regulation. While such regulation relating to such substance is in effect, a food, drug or cosmetic shall not, by reason of bearing or containing such substance in accordance with the regulation, be considered adulterated within the meaning of subsection 1 of section 10, subsection 1 of section 14, or subsection 1 of section 18 of this Act.

2. The department, whenever public health or other considerations in the state so require, is authorized to adopt, amend, or repeal regulations whether or not in accordance with regulations promulgated under the Federal Act prescribing therein tolerances for any added poisonous or deleterious substances, for food additives, for pesticide chemicals in or on raw agricultural commodities, or for color additives, including,

but not limited to, zero tolerances, and exemptions from tolerances in the case of pesticide chemicals in or on raw agricultural commodities, and prescribing the conditions under which a food additive or a color additive may be safely used and exemptions where such food additive or color additive is to be used solely for investigational or experimental purposes, upon its own motion or upon the petition of any interested party requesting that such a regulation be established, and it shall be incumbent upon such petitioner to establish by data submitted to the department that a necessity exists for such regulation, and that its effect will not be detrimental to the public health. If the data furnished by the petitioner is not sufficient to allow the department to determine whether such regulation should be promulgated, the department may require additional data to be submitted and failure to comply with the request shall be sufficient grounds to deny the request. In adopting, amending or repealing regulations relating to such substances the department shall consider among other relevant factors, the following which the petitioner, if any, shall furnish:

- a. The name and all pertinent information concerning such substance including where available, its chemical identity and composition, a statement of the conditions of the proposed use, including directions, recommendations and suggestions and including specimens of proposed labeling, all relevant data bearing on the physical or other technical effect and the quantity required to produce such effect;
- b. The probable composition of any substance formed in or on a food, drug, or cosmetic resulting from the use of such substance;
- c. The probable consumption of such substance in the diet of man and animals taking into account any chemically or pharmacologically related substance in such diet;
- d. Safety factors which, in the opinion of experts qualified by scientific training and experience to evaluate the safety of such substances for the use or uses for which they are proposed to be used, are generally recognized as appropriate for the use of animal experimentation data;
- e. The availability of any needed practicable methods of analysis for determining the identity and quantity of such substance in or on an article, any substance formed in or on such article because of the use of such substance, and the pure substance and all intermediates and impurities;

- f. Facts supporting a contention that the proposed use of such substance will serve a useful purpose.

§ 14. **Drugs and Devices—Adulteration Defined.**) A drug or device shall be deemed to be adulterated:

1. If it consists in whole or in part of any filthy, putrid or decomposed substance.
2. If it has been produced, prepared, packed, or held under unsanitary conditions whereby it may have been contaminated with filth, or whereby it may have been rendered injurious to health.
3. If it is a drug and the methods used in, or the facilities or controls used for, its manufacture, processing, packing, or holding do not conform to or are not operated or administered in conformity with current good manufacturing practice to assure that such drug meets the requirements of this Act as to safety and has the identity and strength, and meets the quality and purity characteristics, which it purports or is represented to possess.
4. If it is a drug and its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health.
5. If it is a drug and it bears or contains, for purposes of coloring only, a color additive which is unsafe within the meaning of subsection 1 of section 13 of this Act or it is a color additive, the intended use of which in or on drugs is for purposes of coloring only, and is unsafe within the meaning of subsection 1 of section 13 of this Act.
6. If it purports to be or is represented as a drug the name of which is recognized in an official compendium, and its strength differs from, or its quality or purity falls below, the standard set forth in such compendium. Such determination as to strength, quality, or purity shall be made in accordance with the tests or methods of assay set forth in such compendium, or in the absence of or inadequacy of such tests or methods of assay, those prescribed under authority of the Federal Act. No drug defined in an official compendium shall be deemed to be adulterated under this subsection because it differs from the standard of strength, quality, or purity therefor set forth in such compendium, if its difference in strength, quality, or purity from such standard is plainly stated on its label. Whenever a drug is recognized in both the United States pharmacopoeia and the homeopathic pharmacopoeia of the United States it shall be subject to the requirements of the United States pharma-

copoeia unless it is labeled and offered for sale as a homeopathic drug, in which case it shall be subject to the provisions of the homeopathic pharmacopoeia of the United States and not to those of the United States pharmacopoeia.

7. If it is not subject to the provisions of subsection 6 of this section and its strength differs from, or its purity or quality falls below, that which it purports or is represented to possess.
8. If it is a drug and any substance has been mixed or packed therewith so as to reduce its quality or strength; or substituted wholly or in part therefor.

§ 15. Drugs and Devices—Misbranding Defined.) A drug or device shall be deemed to be misbranded:

1. If its labeling is false or misleading in any particular.
2. If in package form unless it bears a label containing
 - a. The name and place of business of the manufacturer, packer, or distributor; and
 - b. An accurate statement of the quantity of the contents in terms of weight, measure, or numerical count;

Provided, that under subdivision b of subsection 2 of this section reasonable variations shall be permitted, and exemptions as to small packages shall be allowed, in accordance with regulations prescribed by the department or issued under the Federal Act.

3. If any word, statement, or other information required by or under authority of this Act to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.
4. If it is for use by man and contains any quantity of the narcotic or hypnotic substance alpha-eucaine, barbituric acid, beta-eucaine, bromal, cannabis, carbromal, chloral, coca, cocaine, codeine, heroin, marihuana, morphine, opium, paraldehyde, peyote, or sulphonmethane, or any chemical derivative of such substance, which derivative, after investigation, has been found to be and designated as, habit forming, by regulations issued by the department under this Act, or by regulations issued pursuant to section 502 (d) of the Federal Act, unless its label

bears the name and quantity or proportion of such substance or derivative and in juxtaposition therewith the statement "Warning—May be habit forming".

5. If it is a drug, unless its label bears, to the exclusion of any other non-proprietary name (except the applicable systematic chemical name or the chemical formula):
 - a. The established name (as defined in subsection 6 of this section) of the drug, if such there be;
 - b. The established name and quantity of each active ingredient, in case it is fabricated from two or more ingredients, including the kind and quantity or proportion of any alcohol, and also including, whether active or not, the established name and quantity or proportion of any bromides, ether, chloroform, acetanilid, acetphenetidin, amidopyrine, antipyrine, atropine, hyoscine, hyoscyamine, arsenic, digitalis, digitalis glucosides, mercury, ouabain, strophanthin, strychnine, thyroid, or any derivative or preparation of any such substances, contained therein;

Provided, that the requirement for stating the quantity of the active ingredients, other than the quantity of those specifically named in this subsection shall apply only to prescription drugs; provided further, that to the extent that compliance with the requirements of subdivision b of subsection 6 of this section is impracticable, exemptions shall be allowed under regulations promulgated by the department, or under the Federal Act.

6. As used in subsections 5 and 6 of this section, the term "established name", with respect to a drug or ingredient thereof, means:
 - a. The applicable official name designated pursuant to section 508 of the Federal Act;
 - b. If there is no such name and such drug, or such ingredient, is an article recognized in an official compendium, then the official title thereof in such compendium;
 - c. If neither subdivisions a or b of this subsection applies, then the common or usual name, if any, of such drug or of such ingredient;

Provided further, that where subdivision b of this subsection applies to an article recognized in the United States pharmacopoeia and in the homeopathic pharmacopoeia under different official titles, the official title used in the United States pharmacopoeia shall apply unless it is labeled and offered for sale as a homeopathic drug, in which case the official title used in the homeopathic pharmacopoeia shall apply.

7. Unless its labeling bears
 - a. Adequate directions for use; and
 - b. Such adequate warnings against use in those pathological conditions or by children where its use may be dangerous to health, or against unsafe dosage or methods or duration of administration or application, in such manner and form, as are necessary for the protection of users;

Provided, that where any requirement of subdivision a of subsection 7 of this Act, as applied to any drug or device, is not necessary for the protection of the public health, the department shall promulgate regulations exempting such drug or device from such requirements; provided, further, that articles exempted under regulations issued under section 502 (f) of the Federal Act may also be exempt.

8. If it purports to be a drug the name of which is recognized in an official compendium, unless it is packaged and labeled as prescribed therein; provided, that the method of packing may be modified with the consent of the department, or if consent is obtained under the Federal Act. Whenever a drug is recognized in both the United States pharmacopoeia and the homeopathic pharmacopoeia of the United States, it shall be subject to the requirements of the United States pharmacopoeia with respect to packaging and labeling unless it is labeled and offered for sale as a homeopathic drug, in which case it shall be subject to the provisions of the homeopathic pharmacopoeia of the United States and not to those of the United States pharmacopoeia; provided further, that in the event of inconsistency between the requirements of this subsection and those of subsections 5 and 6 of this section as to the name by which the drug or its ingredients shall be designated, the requirements of subsections 5 and 6 of this section shall prevail.
9. If it has been found by the department or under the Federal Act to be a drug liable to deterioration, unless it is packaged in such form and manner, and its label bears a statement of such precautions, as the regulations issued by the department or under the Federal Act require as necessary for the protection of public health. No such regulation shall be established for any drug recognized in an official compendium until the department shall have informed the appropriate body charged with the revision of such compendium of the need for such packaging or labeling requirements and such body

shall have failed within a reasonable time to prescribe such requirements.

10. If it is a drug and
 - a. Its container is so made, formed, or filled as to be misleading; or
 - b. If it is an imitation of another drug; or
 - c. If it is offered for sale under the name of another drug.
11. If it is dangerous to health when used in the dosage, or with the frequency or duration prescribed, recommended, or suggested in the labeling thereof.
12. If it is, or purports to be, or is represented as a drug composed wholly or partly of insulin, unless it is from a batch with respect to which a certificate or release has been issued pursuant to section 506 of the Federal Act, and such certificate or release is in effect with respect to such drug.
13. If it is, or purports to be, or is represented as a drug composed wholly or partly of any kind of penicillin, streptomycin, chlortetracycline, chloramphenicol, bacitracin, or any other antibiotic drug, or any derivative thereof, unless it is from a batch with respect to which a certificate or release has been issued pursuant to section 507 of the Federal Act, and such certificate or release is in effect with respect to such drug; provided, that this subsection shall not apply to any drug or class of drugs exempted by regulations promulgated under section 507 (c) or (d) of the Federal Act. For the purpose of this subsection the term "antibiotic drug" means any drug intended for use by man containing any quantity of any chemical substance which is produced by a micro-organism and which has the capacity to inhibit or destroy micro-organisms in dilute solution (including the chemically synthesized equivalent of any such substance).
14. If it is a color additive, the intended use of which in or on drugs is for the purpose of coloring only, unless its packaging and labeling are in conformity with such packaging and labeling requirements applicable to such color additive, prescribed under the provisions of subsection 2 of section 13 of this Act or of the Federal Act.
15. In the case of any prescription drug distributed or offered for sale in this state, unless the manufacturer, packer, or distributor thereof includes in all advertise-

ments and other descriptive printed matter issued or caused to be issued by the manufacturer, packer, or distributor with respect to that drug a true statement of the established name as defined in subsection 6 of section 15 of this Act, the formula showing quantitatively each ingredient of such drug to the extent required for labels under section 502 (e) of the Federal Act, and such other information in brief summary relating to side effects, contraindications, and effectiveness as shall be required in regulations issued under the Federal Act.

16. If a trade-mark, trade name or other identifying mark, imprint or device of another or any likeness of the foregoing has been placed thereon or upon its container with intent to defraud.
17. Drugs and devices which are, in accordance with the practice of the trade, to be processed, labeled or repacked in substantial quantities at establishments other than those where originally processed or packed shall be exempt from any labeling or packaging requirements of this Act; provided, that such drugs and devices are being delivered, manufactured, processed, labeled, repacked or otherwise held in compliance with regulations issued by the department, or under the Federal Act.

§ 16. Drugs Limited to Dispensing on Prescription.) 1. A drug intended for use by man which is a habit-forming drug to which subsection 4 of section 15 applies; or because of its toxicity or other potentiality for harmful effect, or the method of its use, or the collateral measures necessary to its use, is not safe for use except under the supervision of a practitioner licensed by law to administer such drug; or is limited by an approved application under section 505 of the Federal Act or section 17 of this Act to use under the professional supervision of a practitioner licensed by law to administer such drug, shall be dispensed only upon a written prescription of a practitioner licensed by law to administer such drug, or upon an oral prescription of such practitioner which is reduced promptly to writing and filed by the pharmacist, or by refilling any such written or oral prescription if such refilling is authorized by the prescriber either in the original prescription or by oral order which is reduced promptly to writing and filed by the pharmacist. The act of dispensing a drug contrary to the provisions of this paragraph shall be deemed to be an act which results in a drug being misbranded while held for sale.

2. Any drug dispensed by filling or refilling a written or oral prescription of a practitioner licensed by law to administer such drug shall be exempt from the requirements of section 15,

except subsection 1, subdivisions b and c of subsection 10, subsections 12 and 13, and the packaging requirements of subsections 8 and 9 of section 15 of this Act, if the drug bears a label containing the name and address of the dispenser, the serial number and date of the prescription or of its filling, the name of the prescriber and, if stated in the prescription, the name of the patient, and the directions for use and cautionary statements, if any, contained in such prescription. This exemption shall not apply to any drug dispensed in the course of the conduct of a business of dispensing drugs pursuant to diagnosis by mail, or to a drug dispensed in violation of subsection 1 of this section.

3. The department may, by regulation, remove drugs subject to subsection 4 of section 15 and section 17 of this Act from the requirements of subsection 1 of this section when such requirements are not necessary for the protection of the public health. Drugs removed from the prescription requirements of the Federal Act by regulations issued thereunder may also, by regulations issued by the department, be removed from the requirements of subsection 1 of this section.

4. A drug which is subject to subsection 1 of this section shall be deemed to be misbranded if at any time prior to dispensing its label fails to bear the statement "Caution: Federal Law Prohibits Dispensing Without Prescription", or "Caution: State Law Prohibits Dispensing Without Prescription". A drug to which subsection 1 of this section does not apply shall be deemed to be misbranded if at any time prior to dispensing its label bears the caution statement quoted in the preceding sentence.

5. Nothing in this section shall be construed to relieve any person from any requirement prescribed by or under authority of law with respect to drugs now included or which may hereafter be included within the classifications of narcotic drugs or marihuana as defined in the applicable federal and state laws relating to narcotic drugs and marihuana.

§ 17. New Drugs.) 1. No person shall sell, deliver, offer for sale, hold for sale or give away any new drug unless:

- a. An application with respect thereto has been approved and said approval has not been withdrawn under section 505 of the Federal Act; or
- b. When not subject to the Federal Act, unless such drug has been tested and has been found to be safe for use and effective in use under the conditions prescribed, recommended, or suggested in the labeling thereof, and prior to selling or offering for sale such drug, there has been filed with the department an application setting forth:

- (1) Full reports of investigations which have been made to show whether or not such drug is safe for use and whether such drug is effective in use;
- (2) A full list of the articles used as components of such drug;
- (3) A full statement of the composition of such drug;
- (4) A full description of the methods used in, and the facilities and controls used for, the manufacture, processing and packing of such drug;
- (5) Such samples of such drug and of the articles used as components thereof as the department may require;
- (6) Specimens of the labeling proposed to be used for such drug.

2. An application provided for in subdivision b of subsection 1 of this section shall become effective on the one hundred eightieth day after the filing thereof, except that if the department finds, after due notice to the applicant and giving him an opportunity for a hearing, that the drug is not safe or not effective for use under the conditions prescribed, recommended, or suggested in the proposed labeling thereof, he shall, prior to the effective date of the application, issue an order refusing to permit the application to become effective.

3. An order refusing to permit an application under this section to become effective may be revoked by the department.

4. This section shall not apply:

- a. To a drug intended solely for investigational use by experts qualified by scientific training and experience to investigate the safety and effectiveness of drugs, provided the drug is plainly labeled in compliance with regulations issued by the department or pursuant to section 505 (i) or 507 (d) of the Federal Act; or
- b. To a drug sold in this state at any time prior to the enactment of this Act or introduced into interstate commerce at any time prior to the enactment of the Federal Act; or
- c. To any drug which is licensed under the Virus, Serum, and Toxin Act of July 1, 1902 (U.S.C. 1958 ed. Title 42 chapter 6A sec. 262); or
- d. To any drug which is subject to subsection 5 of section 15 of this Act.

5. The provisions of subsection 14 of section 2 of this Act shall not apply to any drug which, on October 9, 1962, or on the date immediately preceding the enactment of this subsection:

- a. Was commercially sold or used in this state or in the United States;
- b. Was not a new drug as defined by subsection 14 of section 2 of this Act as then in force;
- c. Was not covered by an effective application under section 17 of this Act or under section 505 of the Federal Act, when such drug is intended solely for use under conditions prescribed, recommended, or suggested in labeling with respect to such drug.

§ 18. Cosmetics—Adulteration Defined.) A cosmetic shall be deemed to be adulterated:

1. If it bears or contains any poisonous or deleterious substance which may render it injurious to users under the conditions of use prescribed in the labeling or advertisement thereof, or under such conditions of use as are customary or usual; provided, that this provision shall not apply to coal-tar hair dye, the label of which bears the following legend conspicuously displayed thereon: "Caution—this product contains ingredients which may cause skin irritation on certain individuals and a preliminary test according to accompanying directions should first be made. This product must not be used for dyeing the eyelashes or eyebrows; to do so may cause blindness", and the labeling of which bears adequate directions for such preliminary testing. For the purpose of this subsection and subsection 5 of this section, the term "hair dye" shall not include eyelash dyes or eyebrow dyes.
2. If it consists in whole or in part of any filthy, putrid, or decomposed substance.
3. If it has been produced, prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health.
4. If its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health.
5. If it is not a hair dye and it is, or it bears or contains a color additive which is unsafe within the meaning of subsection 1 of section 13 of this Act.

§ 19. Cosmetics—Misbranding Defined.) A cosmetic shall be deemed to be misbranded:

1. If its labeling is false or misleading in any particular.
2. If in package form unless it bears a label containing:
 - a. The name and place of business of the manufacturer, packer, or distributor; and
 - b. An accurate statement of the quantity of the contents in terms of weight, measure, or numerical count;

Provided, that under subdivision b of subsection 2 of this section reasonable variations shall be permitted, and exemptions as to small packages shall be established by regulations prescribed by the department.

3. If any word, statement, or other information required by or under authority of this Act to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.
4. If its container is so made, formed or filled as to be misleading.
5. If it is a color additive, unless its packaging and labeling are in conformity with such packaging and labeling requirements applicable to such color additive prescribed under the provisions of the Federal Act. This subsection shall not apply to packages of color additives which, with respect to their use for cosmetics, are marketed and intended for use only in or on hair dyes (as defined in the last sentence of subsection 1 of section 18 of this Act).

§ 20. False Advertising.) 1. An advertisement of a food, drug, device, or cosmetic shall be deemed to be false if it is false or misleading in any particular.

2. For the purpose of this Act the advertisement of a drug or device representing it to have any effect in albuminuria, appendicitis, arteriosclerosis, blood poison, bone disease, Bright's disease, cancer, carbuncles, cholecystitis, diabetes, diphtheria, dropsy, erysipelas, gallstones, heart and vascular diseases, high blood pressure, mastoiditis, measles, meningitis, mumps, nephritis, otitis media, paralysis, pneumonia, poliomyelitis (infantile paralysis), prostate gland disorders, pyelitis, scarlet fever, sexual impotence, sinus infection, small-pox, tuberculosis, tumors, typhoid, uremia, venereal disease,

shall also be deemed to be false, except that no advertisement not in violation of subsection 1 of this section shall be deemed to be false under this subsection if it is disseminated only to members of the medical, dental, pharmaceutical or veterinary professions, or appears only in the scientific periodicals of these professions, or is disseminated only for the purpose of public health education by persons not commercially interested, directly or indirectly in the sale of such drugs or devices; provided, that whenever the department determines that an advance in medical science has made any type of self-medication safe as to any of the diseases named above, the department shall by regulation authorize the advertisement of drugs having curative or therapeutic effect for such disease, subject to such conditions and restrictions as the department may deem necessary in the interests of public health; and provided further, that this subsection shall not be construed as indicating that self-medication for diseases other than those named herein is safe or efficacious.

§ 21. Regulations—Hearings.) The authority to promulgate regulations for the efficient enforcement of this Act is hereby vested in the state laboratories department. The department is hereby authorized to make the regulations promulgated under this Act conform, insofar as practicable, with those promulgated under the Federal Act.

Hearings authorized or required by this Act shall be conducted by the state laboratories director or such officer, agent, or employee as the state laboratories director may designate for the purpose. When promulgating any regulations contemplated by section 9, subsection 10 of section 11, section 12, subsections 4, 7, 8, 9, 14, and 17 of section 15, subsection 3 of section 16 or subsection 2 of section 20 of this Act, the department shall follow the procedures provided for in chapter 28-32 of the North Dakota Century Code.

§ 22. Inspections—Examinations.) The state laboratories director or his duly authorized agent shall have free access at all reasonable hours to any factory, warehouse, or establishment in which foods, drugs, devices, or cosmetics are manufactured, processed, packed, or held for introduction into commerce, or to enter any vehicle being used to transport or hold such foods, drugs, devices, or cosmetics in commerce, for the purpose:

1. Of inspecting such factory, warehouse, establishment, or vehicle to determine if any of the provisions of this Act are being violated;
2. To secure samples or specimens of any food, drug, device, or cosmetic after paying or offering to pay for such

sample. It shall be the duty of the state laboratories director to make or cause to be made examinations of samples secured under the provisions of this section to determine whether or not any provision of this Act is being violated.

§ 23. Publicity.) The department may cause to be published from time to time reports summarizing all judgments, decrees, and court orders which have been rendered under this Act, including the nature of the charge and the disposition thereof.

The department may also cause to be disseminated such information regarding food, drugs, devices, and cosmetics as the department deems necessary in the interest of public health and the protection of the consumer against fraud. Nothing in this section shall be construed to prohibit the department from collecting, reporting, and illustrating the results of the investigations of the department.

§ 24. Repeal.) Sections 19-02-01, 19-02-02, 19-02-03, 19-02-04, 19-02-05, 19-02-06, 19-02-07, 19-02-08, 19-02-11, 19-02-12, 19-02-14.1, 19-02-25, 19-02-26, 19-02-27, 19-02-28, and 19-02-29 and chapter 19-09 of the North Dakota Century Code are hereby repealed.

Approved March 8, 1967.

CHAPTER 169

H. B. No. 711
(Aamoth, Boustead)

ADMINISTRATION AND TAXATION OF OLEOMARGARINE

AN ACT

To create and enact sections 19-05-17, 19-05-18, and 19-05-19 of the North Dakota Century Code and to amend and reenact sections 19-05-01, 19-05-02, 19-05-03, 19-05-04, 19-05-05, 19-05-06, 19-05-07, 19-05-08, 19-05-09, 19-05-10, 19-05-11, 19-05-12, 19-05-13, 19-05-14, 19-05-15, and 19-05-16 of the North Dakota Century Code, relating to definition, sale, and the administration of the taxation of oleomargarine.

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

§ 1. Amendment.) Section 19-05-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-05-01. Definitions.) The term "oleomargarine" as used in this chapter shall mean oleomargarine or margarine the plastic food prepared with one or more ingredients such as rendered fat, oil, or stearin from cattle, sheep, swine or goats and any vegetable food fat, oil, or stearin into which is mixed a small amount of sweet cream, milk, or nonfat dry milk, or other permitted ingredients as may be determined by regulation by the state laboratories department.

§ 2. Amendment.) Section 19-05-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-05-02. Authority to Establish Definitions, Rules, Regulations, Standards, and Ingredients.) The state laboratories department shall fix, adopt, publish, and enforce definitions, rules, regulations with regard to the provisions of this chapter and establish standards of quality, purity, and determine ingredients of oleomargarine for the purpose of:

1. Securing uniformity, as far as practicable, in the laws of this state and of the federal government and the ordinances of municipalities within this state;
2. Preventing fraud and deception in the manufacture, use, sale, and transportation of food;
3. Preserving the public health; and
4. Carrying out the intent of this chapter.

Definitions, rules, regulations, and standards fixed, adopted, and published under the provisions of this chapter shall have the force and effect of law.

§ 3. Amendment.) Section 19-05-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-05-03. Labeling Oleomargarine, Margarine, and Imitation Butter.) No person shall sell or expose for sale, manufacture, or make oleomargarine or any other substance made in imitation or semblance of pure butter, unless the tubs, firkins, or other original packages are distinctly, legibly, and durably branded or marked by letters not less than one inch in length and one-half inch in width in a conspicuous place with the words "oleomargarine", "margarine", or "imitation butter". Retail packages containing oleomargarine or any other substance made in imitation or semblance of pure butter shall be plainly and conspicuously labeled with the words "oleomargarine", "margarine", or "imitation butter", as the case may be.

§ 4. Amendment.) Section 19-05-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-05-04. When Sale in Knowledge of Violation To Be Imputed to Vendor.) The sale or offer for sale of oleomargarine, margarine, or any other imitation butter in packages not branded, stamped, marked, or labeled as required in this chapter shall be prima facie evidence of knowledge of the character of such substance on the part of the person or his employer selling or offering the same for sale.

§ 5. Amendment.) Section 19-05-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-05-05. License—To Whom Granted, Duration, Contents.)

1. No manufacturer, wholesaler, distributor, jobber, or any person acting as such, doing business in this state, shall sell, exchange, or offer for sale, or have in possession with intent to sell, offer for sale, or for exchange, any oleomargarine without first having obtained a license therefor from the state laboratories department.

2. For the purposes of this chapter, "doing business in this state" shall mean any manufacturer, wholesaler, distributor, jobber or any person acting as such having or maintaining within this state, directly or by a subsidiary, an office, distribution house, sales house, warehouse, or other place of business, or by making delivery into this state by his own vehicle or by contract carrier, or by the sending of catalogs or other circulars into this state offering margarine for sale to customers in this state, or by any agent, operating within this state under the authority of the manufacturer, wholesaler, distributor, jobber or any person acting as such or its subsidiary, whether such place of business or agent is located in this state permanently or temporarily or whether or not such a firm is authorized to do business within this state.

3. For the purpose of purchasing oleomargarine revenue stamps, the state tax commissioner, upon application, may authorize the purchase of oleomargarine revenue stamps by any such firm or person not "doing business in this state", who to the satisfaction of the state tax commissioner, furnishes adequate security to insure the payment of the tax. Such authority may be canceled at any time, if the state tax commissioner considers the security inadequate.

4. Each license shall be numbered and shall show the residence and place of business of the licensee. It shall be issued for a period of one year beginning July first of the

year in which it is issued and ending June thirtieth of the year following issuance thereof unless it is revoked prior to such date. Each license shall cover but one place of business. The state laboratories department may revoke the license of any person violating any of the provisions of this chapter. Said department shall notify the tax commissioner in writing immediately of any such revocation.

§ 6. Amendment.) Section 19-05-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-05-06. License Fee.) The fee for a license issued under the provisions of this chapter, shall be as follows:

1. For a manufacturer, ten dollars;
2. For a wholesaler, distributor, or jobber, five dollars.

No license shall be issued until after the required fee has been paid. At the close of each calendar month, the department shall transmit to the state treasurer all moneys received for such licenses. The state treasurer shall credit such moneys to the general fund of the state.

§ 7. Amendment.) Section 19-05-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-05-07. Surety Bond.) 1. Each manufacturer, wholesaler, distributor, jobber or any person acting as such, doing business in this state, shall at the time of application for license, submit to the tax commissioner a surety bond in an amount to be determined by the tax commissioner if such applicant shall desire to purchase oleomargarine revenue stamps for the purpose of stamping oleomargarine containers for sale in this state.

2. For the purposes of this chapter, the amount of the surety bond shall be in an amount not less than one thousand dollars nor more than five thousand dollars for licensees maintaining a permanent location within this state, and for licensees and non-licensees not maintaining a location within this state, who request authorization to purchase oleomargarine revenue stamps, an amount to be determined by the state tax commissioner as sufficient to secure the payment of the tax.

3. The state tax commissioner shall have the authority to waive the requirement of the surety bond in any situation where payment for the purchase of oleomargarine revenue stamps is made by certified check or cashier's check. Once the

bond requirement has been waived, the state tax commissioner shall not be precluded from revoking the waiver at his discretion.

§ 8. Amendment.) Section 19-05-08 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-05-08. Tax on Oleomargarine—Containers for Sale—Tax Stamps To Be Affixed—Reports—Penalty.) 1. The state tax commissioner shall collect a tax of ten cents per pound upon all oleomargarine held for sale or consumption in this state. An additional tax of ten cents per pound shall be collected upon all oleomargarine which is yellow in color held for sale or consumption in this state. Oleomargarine shall not be sold in this state in packages containing less than one pound nor more than thirty pounds. Before a box, carton, or container of oleomargarine is held for distribution by a manufacturer, wholesaler, distributor, jobber, or any person acting as such, or by a retailer, or held for consumption by any person, he shall attach to each package a stamp denoting the payment of the tax upon the oleomargarine therein contained.

2. On or before the tenth day of each month all manufacturers, wholesalers, distributors, jobbers, or any person acting as such holding or selling oleomargarine in this state shall make such reports to the state tax commissioner as he may prescribe. If any manufacturer, wholesaler, distributor, jobber, or any person acting as such liable for any tax imposed by this chapter shall fail to pay such tax by purchasing and attaching the specified revenue stamps there shall be added to the tax a penalty of five percent per month of the total amount of tax unpaid from the date of acquisition of the oleomargarine until paid. All such taxes and penalties may be collected by assessment and distraint, and no court of this state shall enjoin the collection of any such tax or civil penalty. The state tax commissioner may forgive all or part of any such penalty for good cause shown.

3. Every person who has in their possession any oleomargarine upon which the tax in this chapter has not been imposed, shall immediately upon acquisition of the untaxed oleomargarine notify the state tax commissioner of the oleomargarine in their possession and remit the tax as provided in this chapter, or they shall give notice and request that the state tax commissioner compute and assess the tax. For the purposes of this section, notice shall be given by telegram or letter, and such notice shall constitute notice from the time of the sending of the telegram and from the postmarked date of the letter. The notice shall state the brand of oleomargarine

and the number and size of containers. The same such penalty and collection provisions as apply in subsection 2 of this section shall apply to this subsection.

4. Oleomargarine shall be held to be yellow in color when it has a tint or shade containing more than one and six-tenths degree of yellow or of yellow and red collectively but an excess of yellow over red, measured in the terms of the lovibond tintometer scale or its equivalent.

§ 9. Amendment.) Section 19-05-09 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-05-09. Tax Commissioner to Supply Stamps—Tax Deposited in General Fund—Unlawful for Manufacturer, Wholesaler, Distributor, Jobber, or Any Person Acting as Such to Sell or Dispose of Stamps—Tax Meter Machines.) 1. The state tax commissioner shall prepare and purchase suitable stamps denoting the payment of the tax for use on each kind of package described in this chapter. The state tax commissioner shall keep an accurate record of all stamps coming into and leaving his hands. The moneys received from the sale of oleomargarine stamps shall be deposited in the general fund of this state. No manufacturer, wholesaler, distributor, jobber or any person acting as such shall sell or dispose of any stamps received by him under the provisions of this chapter to another manufacturer, wholesaler, distributor, jobber or any person acting as such or to any other person. If a manufacturer, wholesaler, distributor, jobber or any person acting as such owns or operates more than one place of business, stamps may be distributed to the various places of business by the main office, but each place of business shall have a separate license.

2. The state tax commissioner, in lieu of selling stamps, may authorize any manufacturer, wholesaler, distributor, jobber or any person acting as such, located within or without the state to stamp oleomargarine with a tax meter machine, and, under such regulations as he shall prescribe, may provide for the leasing of a tax meter machine to any such manufacturer, wholesaler, distributor, jobber or any person acting as such and for supervising and checking the operation thereof. In such case, the state tax commissioner shall collect and receive the tax prescribed by this chapter on all oleomargarine sold in or delivered to dealers in the state for sale, barter, gifts, or any other purpose, and any oleomargarine so stamped with a tax meter machine need not have affixed thereon stamps prescribed in this chapter, and the same may be possessed lawfully and sold by any wholesale or retail dealer in this state.

3. The state tax commissioner shall have the authority to appoint and designate such tax meter machine setting agents both within and without this state as he shall deem necessary. Such agents shall be bonded in an amount as determined by the state tax commissioner and the cost of the bond and any charges by the agent for the setting of the tax meter machines shall be paid by the manufacturer, wholesaler, distributor, jobber or any person acting as such who has requested the appointment of the setting agent for the purpose of setting their tax meter machine.

§ 10. Amendment.) Section 19-05-10 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-05-10. Correction of Errors — Redemption of Stamps — Issuance of Credit or Refund—Accounting and Destruction of Returned Stamps.) 1. If it shall appear that as a result of a mistake an amount of tax, penalty, or interest has been paid which was not due under the provisions of this chapter, then such amount shall become due under this chapter, and the amount shall be credited or refunded to such person or firm by the tax commissioner. In like manner, if it shall appear that as a result of a mistake an amount of tax, penalty, or interest has not been paid which was due under the provisions of this chapter, then such amount shall become due under this chapter, and the state tax commissioner shall pursue immediate collection under the provisions of this chapter.

2. The state tax commissioner, upon request, shall redeem and make repayment for unused stamps. Whenever a manufacturer, wholesaler, distributor, jobber or any person acting as such destroys oleomargarine stamps accidentally or intentionally, because of staleness or other unfitness for sale, a credit or refund for the stamps removed from such oleomargarine shall be given to the manufacturer, wholesaler, distributor, jobber or any person acting as such under the terms and conditions as prescribed by the state tax commissioner.

3. Whenever by any provisions of this chapter a credit or refund is authorized, the state tax commissioner shall issue a credit applicable to future obligations under this chapter or certify the amount of the refund, the reasons therefor and the name of the payee to the director of the department of accounts and purchases, who shall thereupon draw a warrant on the fund to which the payment had been credited in the amount specified payable to the named payee.

4. Whenever the state tax commissioner shall desire to destroy oleomargarine revenue stamps which represent an outdated denomination or which have been taken from oleo-

margarine packages containing oleomargarine determined unfit for sale, the state tax commissioner shall have the authority to destroy the stamps in a suitable manner after the number of stamps to be destroyed have been verified in writing by the state tax commissioner and the state auditor or their agents or employees.

§ 11. Amendment.) Section 19-05-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-05-11. Open Stock To Be Kept in Required Form—Records of Account.) Every manufacturer, wholesaler, distributor, jobber, or any person acting as such, and retail dealer in oleomargarine shall keep all surplus and open stock in such form as may be prescribed by the state laboratories department and the state tax commissioner. A manufacturer, wholesaler, distributor, jobber, or any person acting as such shall keep a record of all sales of oleomargarine and a retail dealer shall keep a record of all purchases thereof. Such records shall include invoices or bills for all purchases of oleomargarine and at all times during business hours shall be subject to inspection by the state laboratories department and the state tax commissioner or its agents.

§ 12. Amendment.) Section 19-05-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-05-12. Notice Required When Oleomargarine or Margarine Is Used Where Meals Are Served.) The keeper or proprietor of any hotel, boardinghouse, restaurant, lunch counter, or other place where meals are served, who uses or serves for his guests as a substitute for butter any oleomargarine or margarine as defined in this chapter, shall print plainly and conspicuously on the bill of fare, if there is one, the words "oleomargarine used here" or "margarine used here". He also shall post conspicuously in different parts of each room where meals are served, and in places where they can be easily seen and read, signs bearing the words "oleomargarine used here" or "margarine used here" in letters at least one inch high and at least one-half inch wide.

§ 13. Amendment.) Section 19-05-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-05-13. Unlawful for Consumer to Use Oleomargarine Not Stamped—Unlawful to Transport Unstamped Oleomargarine—Penalty.) 1. No person shall use or consume within this state any oleomargarine unless the same has been taken from a

package or container having attached thereto the stamp or stamps affixed under this chapter to denote the payment of the tax thereon.

2. It shall be unlawful for any person to transport into, receive, carry, or move from place to place in this state, by automobile, truck, boat, airplane, conveyance, vehicle, or other means of transportation, except in the course of interstate commerce, any unstamped oleomargarine, and any such automobile, truck, boat, airplane, conveyance, vehicle, or other means of transportation in which any oleomargarine is transported or carried in violation of this chapter, and any oleomargarine and other equipment or personal property used as an incident to such transportation and found in such means of transportation, shall be subject to seizure by the tax commissioner, or by any sheriff or other police officer, with or without process, and shall be subject to forfeiture in the manner provided in section 19-05-14. Violation of this subsection shall constitute a felony.

§ 14. Amendment.) Section 19-05-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-05-14. Procedure in Case of Seizure — Determination — Judgment.) The procedure in case of seizure of oleomargarine or equipment as provided in section 19-05-13 or any other product taxed pursuant to this chapter shall be as follows:

1. Upon the seizure of any oleomargarine and within two days thereafter, the officer making such seizure shall deliver an inventory of the property seized to the person from whom such seizure was made, if known, and shall file a copy thereof with the state tax commissioner.

2. Within ten days after the date of the service of such inventory, the person from whom the seizure was made, or any other person claiming an interest in the property seized, may file a demand for a judicial determination of the question as to whether such property was, or lawfully is, subject to seizure and forfeiture. Thereupon the state tax commissioner, within thirty days, shall institute an action in the district court of the county where such seizure was made to determine the issue of forfeiture. Such action shall be brought in the name of the state of North Dakota, and shall be prosecuted by the state's attorney, the state tax commissioner, or by the attorney general. The district court shall hear such action as a court case, and shall try and determine the issues of law and fact involved.

3. In case a judgment of forfeiture is entered, the state tax commissioner, unless such judgment is stayed pending an appeal to the supreme court, as soon as convenient, shall sell such forfeited property and cover the proceeds, less court costs, into the common school fund of the state.

4. In case a demand for a judicial determination is made and no action is commenced as provided in this section, such property shall be released by the state tax commissioner and redelivered to the person entitled thereto.

5. In the event that no demand for judicial determination is made, such seized property shall be deemed, forfeited to the state by operation of law, and the state tax commissioner thereupon may sell the same.

6. In case of the seizure of an automobile, truck, boat, airplane, conveyance, vehicle, or other means of transportation pursuant to the provisions of this chapter, the officer making the seizure shall file an inventory, and upon a demand for a judicial determination as provided in this section, the state tax commissioner, within thirty days thereafter, shall commence an action in the district court of the county where such seizure was made to declare a forfeiture of such vehicle or other means of transportation, and such action shall be heard and determined as other forfeiture actions instituted under this chapter, and

7. Whenever the state tax commissioner is satisfied that any person from whom property is seized was acting in good faith and without intent to evade the revenue provisions of this chapter, he shall release the property seized without further legal proceedings.

§ 15. Amendment.) Section 19-05-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-05-15. Forging or Counterfeiting Stamps—Punishment.) Any person who, with intent to defraud the state, makes, alters, forges, or counterfeits any license or stamps provided for in this chapter or assists therein or who has in his possession any forged, counterfeited, spurious, or altered license or stamps, knowing the same to be forged, counterfeited, spurious, or altered, shall be punished by a fine of not more than one thousand dollars, or by imprisonment in the penitentiary for not more than three years, or by both such fine and imprisonment.

§ 16. Amendment.) Section 19-05-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-05-16. Penalty.) Unless it is otherwise provided in this chapter, any person violating any of the provisions of this chapter is guilty of a misdemeanor, and for the first offense shall be punished by a fine of not less than fifty dollars nor more than five hundred dollars, or by imprisonment in the county jail for not more than thirty days, or by both such fine and imprisonment. For the second and each subsequent offense, he shall be punished by a fine of not less than one hundred dollars nor more than one thousand dollars, or by imprisonment in the county jail for not less than thirty days nor more than ninety days, or by both such fine and imprisonment.

§ 17.) Section 19-05-17 of the North Dakota Century Code is hereby created and enacted to read as follows:

19-05-17. Enforcement—Duty of Law Enforcement Officers.) Every officer who has the duty of enforcing the laws of this state shall be charged with the enforcement of the provisions of this chapter, and for failure to enforce the same, shall be subject to removal from office.

§ 18.) Section 19-05-18 of the North Dakota Century Code is hereby created and enacted to read as follows:

19-05-18. Hearing—Appeals from Decision of the State Tax Commissioner.) Except as provided in section 19-05-14, any person aggrieved because of any action or decision of the state tax commissioner under the provisions of this chapter, shall have the right to a hearing by the state tax commissioner and shall have the right to appeal from the decision of the state tax commissioner on such hearing, all in accordance with the provisions of chapter 28-32 of the title Judicial Procedure, Civil.

§ 19.) Section 19-05-19 of the North Dakota Century Code is hereby created and enacted to read as follows:

19-05-19. Tax Commissioner to Administer Taxation Provisions of This Chapter.) In administering this chapter, the tax commissioner and his agents shall exercise the following powers:

1. The tax commissioner and his authorized agents shall enforce the provisions of this chapter and shall have the powers of peace officers. They may arrest violators of the provisions of this chapter and enter complaint before any court of competent jurisdiction, and may seize without formal warrant, and use as evidence, any forged, counterfeit, spurious, or altered license or stamp, and untaxed oleomargarine found in the possession of any person in violation of this chapter;

2. The tax commissioner may prescribe rules and regulations not inconsistent with the provisions of this chapter for its detailed and efficient administration.

Approved March 3, 1967.

CHAPTER 170

H. B. No. 658
(Johnson(23), Bier)

ICE MILK MANUFACTURER'S LICENSE

AN ACT

To amend and reenact sections 19-06-03 and 19-06-04 of the North Dakota Century Code, relating to the wholesale or retail sale of ice milk, and to provide that current licenses shall be extended.

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

§ 1. **Amendment.)** Section 19-06-03 of the 1965 Supplement to 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 ice milk at wholesale or retail 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.

§ 2. **Amendment.)** Section 19-06-04 of the 1965 Supplement to 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 April of the year of issue and terminating on the thirty-first day of March 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.

§ 3. **Present Licenses Continue in Effect.)** A license for the manufacture of ice milk issued for the year 1967 shall not expire until the thirty-first day of March, 1968.

Approved February 24, 1967.

CHAPTER 171

S. B. No. 38

(Christensen, Morgan, Ringsak)

(From LRC Study)

NORTH DAKOTA COMMERCIAL FEED LAW OF 1967

AN ACT

To regulate the distribution of commercial feeds and customer-formula feeds, and to repeal chapter 19-13 of the North Dakota Century Code, relating to commercial feeding stuffs, and providing a penalty.

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

§ 1. **Title.)** This Act shall be known as the "North Dakota Commercial Feed Law of 1967".

§ 2. **Enforcing Official.)** This Act shall be administered by the state laboratories department, hereinafter referred to as the "department".

§ 3. **Definitions of Words and Terms.)** When used in this Act:

1. "Person" includes individual, partnership, corporation, and association.
2. "Distribute" means to offer for sale, sell or barter, commercial feed or customer-formula feed; or to supply, furnish, or otherwise provide commercial feed or customer-formula feed to a contract feeder. "Distributor" means any person who distributes.
3. "Sell" or "sale" includes exchange.
4. "Commercial feed" means all materials which are distributed for use as feed or for mixing in feed, for animals other than man except:
 - a. Unmixed seed, whole or processed, made directly from the entire seed;
 - b. Hay, straw, stover, silage, cobs, husks, and hulls when unground and when unmixed with other materials;
 - c. Individual chemical compounds when not mixed with other materials.
5. "Feed ingredient" means each of the constituent materials making up a commercial feed.

6. "Mineral feed" shall mean a substance or mixture of substances designed or intended to supply primarily mineral elements or inorganic nutrients.
7. "Customer-formula feed" means a mixture of commercial feeds and/or materials each batch of which mixture is mixed according to the specific instructions of the final purchaser, or contract feeder.
8. "Brand name" means any word, name, symbol, or device, or any combination thereof, identifying the commercial feed of a distributor and distinguishing it from that of others.
9. "Product name" means the name of the commercial feed which identifies it as to kind, class, or specific use.
10. "Label" means a display of written, printed, or graphic matter upon or affixed to the container in which a commercial feed is distributed, or on the invoice or delivery slip with which a commercial feed or customer-formula feed is distributed.
11. "Ton" means a net weight of two thousand pounds avoirdupois.
12. "Percent" or "percentage" means percentage by weight.
13. "Official sample" means any sample of feed taken by the state laboratories director or his agent and designated as "official" by the department.
14. "Contract feeder" means a person who, as an independent contractor, feeds commercial feed to animals pursuant to a contract whereby such commercial feed is supplied, furnished, or otherwise provided to such person and whereby such person's remuneration is determined all or in part by feed consumption, mortality, profits, or amount or quality of product.

§ 4. **Registration.**) 1. Each commercial feed shall be registered before being distributed in this state; provided, however, that customer-formula feeds are exempt from registration. The application for registration shall be submitted on forms furnished by the department, and, if the department so requests, shall also be accompanied by a label or other printed matter describing the product. Upon approval by the department a copy of the registration shall be furnished to the applicant. All registrations are considered permanent unless new registrations are called for by the department or unless canceled by the registrant. The application shall include the information required by subsections 2, 3, 4, and 5 of section 5 of this Act. The department may by regulation permit on the

registration the alternative listing of ingredients of comparable feeding value, provided that the label for each package shall state the specific ingredients which are in such package.

2. A distributor shall not be required to register any brand of commercial feed which is already registered under this Act by another person. Changes in the guarantee of either chemical or ingredient composition of a registered commercial feed may be permitted provided there is satisfactory evidence that such changes would not result in a lowering of the feeding value of the product for the purpose for which designed. The department is empowered to refuse registration of any application not in compliance with the provisions of this Act and to cancel any registration subsequently found not to be in compliance with any provision of this Act; provided, however, that no registration shall be refused or canceled until the registrant shall have been given opportunity to be heard before the department and to amend his application in order to comply with the requirements of this Act.

§ 5. Labeling.) Any commercial feed distributed in this state shall be accompanied by a legible label bearing the following information:

1. The net weight.
2. The product name and brand name, if any, under which the commercial feed is distributed.
3. The guaranteed analysis of the commercial feed, listing the minimum percentage of crude protein, minimum percentage of crude fat, and maximum percentage of crude fiber; additional guarantees required to be or intentionally shown, shall appear only in the guaranteed analysis section of the label after the guarantee for maximum crude fiber. For all mineral feeds and for those commercial feeds containing a level of added mineral ingredients established by regulation, the list shall include the following, if added: minimum and maximum percentages of calcium (Ca), minimum percentage of phosphorus (P), minimum percentage of iodine (I), and minimum and maximum percentages of salt (NaCl). Other substances or elements, determinable by laboratory methods, may be guaranteed by permission of the department. When any items are guaranteed, they shall be subject to inspection and analysis in accordance with the methods and regulations that may be prescribed by the department. The department may by regulation designate certain commercial feeds which need not be labeled to show guarantees for crude protein, crude fat, and crude fiber.

4. The common or usual name of each ingredient used in the manufacture of the commercial feed, except as the department may, by regulation, permit the use of a collective term for a group of ingredients all of which perform the same function. An ingredient statement is not required for single standardized ingredient feeds which are officially defined.
5. The name and principal address of the person responsible for distributing the commercial feed.

§ 6. Additional Labeling Requirements.) When a commercial feed is distributed in this state in bags or other containers, the label shall be placed on or affixed to the container; when a commercial feed is distributed in bulk the label shall accompany delivery and be furnished to the purchaser at time of delivery. A customer-formula feed shall be labeled by invoice. The invoice, which is to accompany delivery and be supplied to the purchaser at the time of delivery, shall bear the following information:

1. Name and address of the mixer.
2. Name and address of the purchaser.
3. Date of sale.
4. The product name and brand name, if any, and number of pounds of each registered commercial feed used in the mixture and the name and number of pounds of each other feed ingredient added.

If a commercial feed or a customer-formula feed contains a non-nutritive substance which is intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease or which is intended to affect the structure or any function of the animal body, the department may require the label to show the amount present, directions for use, and/or warnings against misuse of the feed.

§ 7. Inspection Fees.) There shall be paid to the department for all commercial feeds distributed in this state an inspection fee at the rate of twenty cents per ton; provided, however, that customer-formula feeds are hereby exempted if the inspection fee is paid on the commercial feeds which they contain; and provided, further, that distribution of commercial feeds to manufacturers is hereby exempted if the commercial feeds so distributed are used solely in manufacture of feeds which are registered; and provided, further, that any distributor shall pay an annual registration fee of fifteen dollars (\$15.00) for each brand of commercial feed distributed only in individual packages of ten pounds or less,

and the distributor of such brand shall not be required to pay the inspection fee on such packages of the brand so registered. All fees received by the state laboratories department, as provided for in this Act, shall be properly recorded by it and forwarded monthly to the treasurer of the state of North Dakota.

Every person, except as hereinafter provided, who distributes commercial feed in this state shall:

1. File, not later than the fifteenth day of January and July of each year, a semiannual statement under oath, setting forth the number of net tons of commercial feeds distributed in this state during the preceding six months; and upon filing such statement shall pay the inspection fee. When more than one person is involved in the distribution of a commercial feed, the person who distributes to the consumer is responsible for reporting the tonnage and paying the inspection fee.
2. Keep such records as may be necessary or required by the department to indicate accurately the tonnage of commercial feed distributed in this state, and the department shall have the right to examine such records to verify statements of tonnage.

Failure to make an accurate statement of tonnage or to pay the inspection fee or comply as provided herein shall constitute sufficient cause for the cancellation of all registrations on file for the distributor.

§ 8. **Adulteration.**) No person shall distribute an adulterated feed. A commercial feed or customer-formula feed shall be deemed to be adulterated:

1. If any poisonous, deleterious, or non-nutritive ingredient has been found in sufficient amount to render it injurious to health when fed in accordance with directions for use on the label.
2. If any valuable constituent has been in whole or in part omitted or abstracted therefrom or any less valuable substance substituted therefor.
3. If its composition or quality falls below or differs from that which it is purported or is represented to possess by its labeling.
4. If it contains added hulls, screenings, straw, cobs, or other high fiber material unless the name of each such material is stated on the label.
5. If it contains viable weed seeds in amounts exceeding the limits which the department shall establish by rule or regulation.

§ 9. Misbranding.) No person shall distribute misbranded feed. A commercial feed or customer-formula feed shall be deemed to be misbranded:

1. If its labeling is false or misleading in any particular.
2. If it is distributed under the name of another feed.
3. If it is not labeled as required in section 5 of this Act and in regulations prescribed under this Act.
4. If it purports to be or is represented as a feed ingredient, or if it purports to contain or is represented as containing a feed ingredient, unless such feed ingredient conforms to the definition of identity, if any, prescribed by regulation of the department; in the adopting of such regulations the department shall give due regard to commonly accepted definitions such as those issued by the association of American feed control officials.
5. If any word, statement, or other information required by or under authority of this Act to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

§ 10. Inspection—Sampling—Analysis.) It shall be the duty of the state laboratories director, who may act through his authorized agent, to sample, inspect, make analyses of, and test commercial feeds and customer-formula feeds distributed within this state at such time and place to such an extent as he may deem necessary to determine whether such feeds are in compliance with the provisions of this Act. The state laboratories director, individually or through his agent, is authorized to enter upon any public or private premises including any vehicle of transport during regular business hours in order to have access to commercial feeds and customer-formula feeds and to records relating to their distribution. The methods of sampling and analysis shall be those adopted by the department from sources such as the journal of the association of official agricultural chemists.

The department, in determining for administrative purposes whether a commercial feed is deficient in any component, shall be guided solely by the official sample as defined in subsection 13 of section 3 of this Act and obtained and analyzed as provided for in this section. When the inspection and analysis of an official sample indicates a commercial feed has been adulterated or misbranded, the results

of analysis shall be forwarded by the department to the distributor and the purchaser. Upon request within thirty days the department shall furnish to the distributor a portion of the sample concerned.

§ 11. Rules and Regulations.) The state laboratories department is hereby charged with the enforcement of this Act, and is empowered to promulgate and adopt such reasonable rules and regulations as may be necessary in order to secure the efficient administration of this Act. When promulgating any rules or regulations under the authority of this section, the department shall follow the procedures provided for in chapter 28-32 of the North Dakota Century Code. Publicity concerning the public hearing shall be reasonably calculated to give interested parties adequate notice and adequate opportunity to be heard.

§ 12. Detained Commercial Feeds.) When the state laboratories director or his authorized agent has reasonable cause to believe any lot of commercial feed is being distributed in violation of any of the provisions of this Act or of any of the prescribed regulations under this Act, he may issue and enforce a written or printed "withdrawal from distribution" order, warning the distributor not to dispose of the lot of feed in any manner until written permission is given by the department or the court. The department shall release the lot of commercial feed so withdrawn when said provisions and regulations have been complied with. If compliance is not obtained within thirty days, the department may begin, or upon request of the distributor shall begin, proceedings for condemnation.

Any lot of commercial feed not in compliance with said provisions and regulations shall be subject to seizure on complaint of the state laboratories director to a court of competent jurisdiction in the area in which said commercial feed is located. In the event the court finds the said commercial feed to be in violation of this Act and orders the condemnation of said commercial feed, it shall be disposed of in any manner consistent with the quality of the commercial feed and the laws of the state; provided, that in no instance shall the disposition of said commercial feed be ordered by the court without first giving the claimant an opportunity to apply to the court for release of said commercial feed or for permission to process or relabel said commercial feed to bring it into compliance with this Act.

§ 13. Penalties.) Any person convicted of violating any of the provisions of this Act or the rules and regulations issued thereunder or who shall impede, obstruct, hinder, or otherwise prevent or attempt to prevent said state laboratories director or his duly authorized agent in performance of his

duty in connection with the provisions of this Act, shall be deemed guilty of a misdemeanor and on conviction thereof shall be fined in the sum of fifty dollars for the first offense and in the sum of one hundred dollars for each subsequent offense. In all prosecutions under this Act involving the composition of a lot of commercial feed, a certified copy of the official analysis signed by the state laboratories director shall be accepted as prima facie evidence of the composition.

Nothing in this Act shall be construed as requiring the state laboratories director or his representative to report for prosecution or for the institution of seizure proceedings as a result of minor violations of the Act when he believes that the public interest will be best served by a suitable notice of warning in writing.

It shall be the duty of each state's attorney to whom any violation is reported to cause appropriate proceedings to be instituted and prosecuted in a court of competent jurisdiction without delay. Before the department reports a violation for such prosecution, an opportunity shall be given the distributor to present his view to the department.

The department is hereby authorized to apply for and the court to grant a temporary or permanent injunction restraining any person from violating or continuing to violate any of the provisions of this Act or any rule or regulation promulgated under the Act notwithstanding the existence of other remedies at law. Said injunction to be issued without bond.

Any person adversely affected by an act, order, or ruling made pursuant to the provisions of this Act may within forty-five days thereafter bring action in the district court for Burleigh County for new trial of the issues bearing upon such act, order, or ruling, and upon such trial the court may issue and enforce such orders, judgments, or decrees as the court may deem proper, just, and equitable.

§ 14. Publications.) The department shall publish at least annually, in such forms as it may deem proper, information concerning the sales of commercial feeds, together with such data on their production and use as it may consider advisable, and a report of the results of the analyses of official samples of commercial feeds sold within the state as compared with the analyses guaranteed in the registration and on the label; provided, however, that the information concerning production and use of commercial feeds shall not disclose the operations of any person.

§ 15. Repeal.) Chapter 19-13 of the North Dakota Century Code is hereby repealed.

Approved February 6, 1967.

CHAPTER 172

S. B. No. 39
(Morgan, Ringsak)
(From LRC Study)

NORTH DAKOTA FERTILIZER AND SOIL CONDITIONER LAW
OF 1967

AN ACT

To regulate the sale and distribution of commercial fertilizers and soil conditioners, and to repeal chapter 19-20 of the North Dakota Century Code, relating to commercial fertilizers, and providing a penalty.

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

§ 1. **Title.)** This Act shall be known as the "North Dakota Fertilizer and Soil Conditioner Law of 1967".

§ 2. **Enforcing Official.)** This Act shall be administered by the state laboratories department of the state of North Dakota, hereinafter referred to as the "department".

§ 3. **Definitions of Words and Terms.)** When used in this Act:

1. "Commercial fertilizer" means any substance containing one or more recognized plant nutrient(s) which is used for its plant nutrient content and which is designed for use or claimed to have value in promoting plant growth (except unmanipulated animal and vegetable manures, marl, lime, limestone, wood ashes and gypsum).
2. "Mixed fertilizers" is a commercial fertilizer containing any combination or mixtures of fertilizer materials designed for use or claimed to have value in promoting plant growth.
3. "Specialty fertilizer" is a commercial fertilizer distributed primarily for nonfarm use, such as home gardens, lawns, shrubbery, flowers, golf courses, municipal parks, cemeteries, greenhouses and nurseries.
4. "Bulk fertilizers" means commercial fertilizer distributed in a non-packaged form.
5. "Brand" means a term, design, or trade-mark used in connection with one or several grades of commercial fertilizer.

6. Until the department prescribes the alternative form of "guaranteed analysis" in accordance with the provisions of this subsection, "guaranteed analysis" shall mean the minimum percentage of plant nutrients claimed in the following order and form:

- a. Total Nitrogen (N)..... _____percent
 Available Phosphoric Acid (P_2O_5)..... _____percent
 Soluble Potash (K_2O)..... _____percent
- b. For unacidulated mineral phosphatic materials and basic slag, both total and available phosphoric acid and the degree of fineness. For bone, tankage, and other organic phosphatic materials, total phosphoric acid.
- c. Guarantees for plant nutrients other than nitrogen, phosphorus and potassium may be permitted or required by regulation of the department. The guarantees for such other nutrients shall be expressed in the form of the element. The sources of such other nutrients (oxides, salt, chelates, etc.) may be required to be stated on the application for registration and may be included as a parenthetical statement on the label. Other beneficial substances or compounds, determinable by laboratory methods, also may be guaranteed by permission of the department and with the advice of the director of the agricultural experiment station. When any plant nutrients or other substances or compounds are guaranteed they shall be subject to inspection and analysis in accord with the methods and regulations prescribed by the department.
- d. Potential basicity or acidity expressed in terms of calcium carbonate equivalent in multiples of one hundred pounds per ton when required by regulation.

At any time after July 1, 1967, when the department finds, after public hearing following due notice, that the requirement for expressing the guaranteed analysis of phosphorus and potassium in elemental form would not impose an economic hardship on distributors and users of fertilizer by reason of conflicting labeling requirements among the states, they may require by regulation thereafter that the "guaranteed analysis" shall be in the following form:

Total Nitrogen (N)..... _____percent
 Available Phosphorus (P)..... _____percent
 Soluble Potassium (K)..... _____percent

provided, however, that the effective date of said regulation shall be not less than six months following the issuance thereof, and provided, further, that for a period of two years following the effective date of said regulation, the equivalent of phosphorus and potassium may also be shown in the form of phosphoric acid and potash; provided, however, that after the effective date of a regulation issued under the provisions of this section, requiring that phosphorus and potassium be shown in the elemental form, the guaranteed analysis for nitrogen, phosphorus, and potassium shall constitute the grade.

7. "Grade" means the percentages of total nitrogen, available phosphorus or phosphoric acid, and soluble potassium or soluble potash stated in whole numbers in the same terms, order and percentages as in the "guaranteed analysis".
8. "Official sample" means any sample of commercial fertilizer taken by the state laboratories director or his agent and designated as "official" by the department.
9. "Ton" means a net weight of two thousand pounds avoirdupois.
10. "Percent" or "percentage" means the percentage by weight.
11. "Person" includes individual, partnership, association, firm, and corporation.
12. "Distributor" means any person who imports, consigns, manufactures, produces, compounds, mixes, or blends commercial fertilizer, or who offers for sale, sells, barter, or otherwise supplies commercial fertilizer in this state.
13. Words importing the singular number may extend and be applied to several persons or things and words importing the plural number may include the singular.
14. "Registrant" means the person who registers commercial fertilizer under the provisions of this Act.

As used in this Act, soil conditioners, aggregants, or additives are any synthetic organic chemical substances, or chemically or physically modified natural substances, or naturally occurring substances, or manufacturing byproducts, mixed or unmixed, which are represented as having a primary function of forming or stabilizing soil aggregants in soil to which it is to be applied and thereby improving the resistance

of such soil to the slaking action of water, increasing its water and air permeability, improving the resistance of its surface to crusting, improving its ease of cultivation, or otherwise favorably modifying its structural or physical properties.

The terms "soil conditioners, aggregants, or additives" exclude such products having recognized guaranteed plant nutrient elements or compounds; auxiliary plant chemicals such as hormones, bacterial inoculants, and liming materials sold for agricultural purposes.

The terms "soil conditioners, aggregants, or additives" shall include hays, straws, peat, leaf mold, sand, charcoal, pumice, perlite, expanded vermiculite, sintered shale, diatomite, clay and products of similar nature, potting media if sold with no claim for chemical constituents and intended for use solely because of their physical nature.

§ 4. Registration.) Each brand and grade of commercial fertilizer shall be registered before being distributed in this state. The application for registration shall be submitted to the department on form furnished by the department and shall be accompanied by a fee of five dollars except that those brands or grades sold in packages of 25 pounds or less shall be registered at a fee of twenty-five dollars each. Upon approval by the department a copy of the registration shall be furnished to the applicant. All registrations expire on June 30 of each year. The application shall include the following information:

1. The net weight.
2. The brand and grade.
3. The guaranteed analysis.
4. The name and address of the registrant.
5. The sources from which the nitrogen, phosphorus, and potassium are derived.

A distributor shall not be required to register any brand of commercial fertilizer which is already registered under this Act by another person. A distributor shall not be required to register a commercial fertilizer formulated according to specifications which are furnished by a consumer prior to mixing; but shall be required to label such fertilizer as provided in subsection 3 of section 5 of this Act.

§ 5. Labeling Fertilizers.)

1. Any commercial fertilizer distributed in this state in containers shall have placed on or affixed to the container a label setting forth in clearly legible and con-

- spicuous form the information required by subsections 1, 2, 3, and 4 of section 4 of this Act.
2. If distributed in bulk, a written or printed statement of the information required by subsections 1, 2, 3, and 4 of section 4 of this Act shall accompany delivery and be supplied to the purchaser at time of delivery.
 3. A commercial fertilizer, formulated according to specifications which are furnished by a consumer prior to mixing, shall be labeled to show the net weight, guaranteed analysis, and the name and address of the distributor.

§ 6. Labeling Soil Conditioners.) Any soil container offered for sale or sold or distributed in this state in bags, barrels or other containers shall have placed on or affixed to the container the net weight, brand name, name and address of manufacturer, ingredient list using the common or usual English name of each component in the soil conditioner product at the time of blending or mixing, and the statement "NOT A PLANT FOOD PRODUCT" printed either on tags affixed to the end of the package or on the package or container if the label is printed thereon in type that is plainly legible. The statement "NOT A PLANT FOOD PRODUCT" shall be in a prominent location on the label and shall be printed in easily legible type of the same size used in the brand and product name, and which is in contrast by typography, layout, or color with other printed matter on the label. If transported in bulk, the net weight and data in written or printed form, as required by this section, shall accompany delivery and be supplied to each and every purchaser.

§ 7. Inspection Fees.) There shall be paid to the department for all commercial fertilizers distributed in this state an inspection fee at the rate of ten cents per ton: Provided, that sales to manufacturers or exchanges between them are hereby exempted. Fees so collected shall be used for the payment of the costs of inspection, sampling, and analysis, and other expenses necessary for the administration of this Act.

On individual packages of commercial fertilizer containing 25 pounds or less, there shall be paid in lieu of the annual registration fee of five dollars per brand and the ten cents per ton inspection fee, an annual registration fee and inspection fee of twenty-five dollars for each brand and grade sold or distributed. Where a person sells commercial fertilizer in packages of 25 pounds or less and in packages over 25 pounds, this annual registration and inspection fee of twenty-five dollars shall apply only to that portion sold in packages of 25 pounds or less, and that portion sold in packages over 25

pounds shall be subject to the same inspection fee of ten cents per ton as provided in this Act.

Every person who distributes a commercial fertilizer in this state shall file with the department, on forms furnished by the department, a semiannual statement for the periods ending December 31 and June 30, setting forth the number of net tons of each commercial fertilizer distributed in this state during such period. The report shall be due on or before the fifteenth day of the month following each semiannual period and upon such statement shall pay the inspection fee at the rate stated in this section. If the tonnage report is not filed and the payment of inspection fee is not made within thirty days after the end of the semiannual period, a collection fee amounting to ten percent (minimum \$10.00) of the amount shall be assessed against the registrant, and the amount of fees due shall constitute a debt and become the basis of a judgment against the registrant.

When more than one person is involved in the distribution of a commercial fertilizer, the last person who has the fertilizer registered and who distributes to a non-registrant (dealer or consumer) is responsible for reporting the tonnage and paying the inspection fee, unless the report and payment have been previously made by a prior distributor of a fertilizer.

§ 8. Tonnage Reports.) When more than one person is involved in the distribution of a commercial fertilizer, the last person who has the fertilizer registered and who distributes to a non-registrant (dealer or consumer) is responsible for reporting the tonnage and paying the inspection fee, unless the reporting and paying of fees have been made by a prior distributor of the fertilizer.

§ 9. Inspection—Sampling—Analysis.) It shall be the duty of the state laboratories director, who may act through his authorized agent, to sample, inspect, make analyses of, and test commercial fertilizers distributed within this state at time and place and to such an extent as he may deem necessary to determine whether such commercial fertilizers are in compliance with the provisions of this Act. The state laboratories director individually or through his agent, is authorized to enter upon any public or private premises or carriers during regular business hours in order to have access to commercial fertilizers subject to the provisions of this Act and the rules and regulations pertaining thereto. The methods of analysis and sampling shall be those adopted by the department from sources such as the A.O.A.C. journal.

The department, in determining for administrative purposes whether any commercial fertilizer is deficient in plant food,

shall be guided solely by the official sample as defined in subsection 8 of section 3 of this Act, and obtained and analyzed as provided for in this section. The results of official analysis of any commercial fertilizer which has been found to be subject to penalty or other legal action shall be forwarded by the department to the registrant at least ten days before the report is submitted to the purchaser. If during that period no adequate evidence to the contrary is made available to the department, the report shall become official. Upon request the department shall furnish to the registrant a portion of any sample found subject to penalty or other legal action.

§ 10. Minimum Plant Food Content.) No superphosphate containing less than sixteen percent available phosphoric acid nor any mixed fertilizer in which the sum of the guarantees for the nitrogen, available phosphoric acid, and soluble potash totals less than twenty percent shall be distributed in this state except for mixed fertilizers containing twenty-five percent or more of their nitrogen in water-insoluble form of plant or animal origin, in which case the total nitrogen, available phosphoric acid, and soluble potash shall not total less than eighteen percent. If guarantees are expressed in elemental form, the appropriate conversions shall be made to available phosphorus and soluble potassium.

§ 11. False or Misleading Statements.) A commercial fertilizer or soil conditioner is misbranded if it carries a false or misleading statement on the container, on the label attached to the container, or if false or misleading statements concerning the fertilizer or soil conditioner are disseminated in any manner or by any means. It shall be unlawful to distribute a misbranded fertilizer or soil conditioner.

§ 12. Publications.) The department shall publish at least annually and in such forms as they may deem proper:

1. Information concerning the distribution of commercial fertilizers and soil conditioners.
2. Results of analyses based on official samples of commercial fertilizers distributed within the state as compared with the analyses guaranteed under sections 4 and 5 of this Act.

§ 13. Rules and Regulations.) For the enforcement of this Act, the state laboratories director is authorized to prescribe and enforce such rules, regulations, and tolerances relating to the distribution of commercial fertilizers and soil conditioners as he may find necessary to carry into effect the full intent and meaning of this Act. When promulgating any rules or

regulations under the authority of this section, the state laboratories director shall follow the procedures provided for in chapter 28-32 of the North Dakota Century Code.

§ 14. Short Weight.) If any commercial fertilizer in the possession of the consumer is found by the department to be short in weight, the registrant of said commercial fertilizer shall within thirty days after official notice from the department pay to the consumer a penalty equal to four times the value of the actual shortage.

§ 15. Cancellation of Registrations.) The department is authorized and empowered to cancel the registration of any brand of commercial fertilizer or to refuse to register any brand of commercial fertilizer as herein provided, upon satisfactory evidence that the registrant has used fraudulent or deceptive practices in the evasions or attempted evasions of the provisions of this Act or any rules and regulations promulgated thereunder; provided, that no registration shall be revoked or refused until the registrant shall have been given the opportunity to appear for a hearing by the department.

§ 16. "Stop Sale" Orders.) The department may issue and enforce a written or printed "stop sale, use, or removal" order to the owner or custodian of any lot of commercial fertilizer or soil conditioner and an order to hold at a designated place when the department finds said commercial fertilizer or soil conditioner is being offered or exposed for sale in violation of any of the provisions of this Act until the law has been complied with and said commercial fertilizer or soil conditioner is released in writing by the department or said violation has been otherwise legally disposed of by written authority. The department shall release the commercial fertilizer or soil conditioner so withdrawn when the requirements of the provisions of this Act have been complied with and all costs and expenses incurred in connection with the withdrawal have been paid.

§ 17. Seizure — Condemnation — Sale.) Any lot of commercial fertilizer or soil conditioner not in compliance with the provisions of this Act shall be subject to seizure on complaint of the department to the district court in the county in which said commercial fertilizer or soil conditioner is located. In the event the court finds the said commercial fertilizer or soil conditioner to be in violation of this Act and orders its condemnation, it shall be disposed of in any manner consistent with the quality of the commercial fertilizer or soil conditioner and the laws of the state; provided, that in no instance shall the disposition of said commercial fertilizer or soil conditioner be ordered by the court without first giving the claimant an

opportunity to apply to the court for release of said commercial fertilizer or soil conditioner or for permission to process or relabel said commercial fertilizer or soil conditioner to bring it into compliance with this Act.

§ 18. Violations.) If it shall appear from the examination of any commercial fertilizer or soil conditioner that any of the provisions of this Act or the rules and regulations issued thereunder have been violated, the department shall cause notice of the violations to be given to the registrant, manufacturer, distributor, or possessor from whom said sample was taken; any person so notified shall be given opportunity to be heard under such rules and regulations as may be prescribed by the department. If it appears after such hearing, either in the presence or absence of the person so notified, that any of the provisions of this Act or rules and regulations issued thereunder have been violated, the state laboratories director may certify the facts to the proper prosecuting attorney.

Any person convicted of violating any of the provisions of this Act or the rules and regulations issued thereunder or who shall impede, obstruct, hinder, or otherwise prevent or attempt to prevent said state laboratories director or his duly authorized agent in the performance of his duty in connection with the provisions of this Act, shall be deemed guilty of a misdemeanor and on conviction thereof shall be fined not less than five hundred dollars for the first offense and not less than one thousand dollars for each subsequent offense. In all prosecutions under this Act involving the composition of a lot of commercial fertilizers or soil conditioners, a certified copy of the official analysis signed by the state laboratories director shall be accepted as prima facie evidence of the composition.

Nothing in this Act shall be construed as requiring the state laboratories director or his representative to report for prosecution or for the institution of seizure proceedings as a result of minor violations of the Act when he believes that the public interests will be best served by a suitable notice of warning in writing.

It shall be the duty of each state's attorney to whom any violation is reported to cause appropriate proceedings to be instituted and prosecuted in a court of competent jurisdiction without delay.

The department is hereby authorized to apply for and the court to grant a temporary or permanent injunction restraining any person from violating or continuing to violate any of the provisions of this Act or any rule or regulation promulgated under the Act notwithstanding the existence of other remedies at law. Said injunction to be issued without bond.

§ 19. Exchanges Between Manufacturers.) Nothing in this Act shall be construed to restrict or avoid sales or exchanges of commercial fertilizers to each other by importers, manufacturers, or manipulators who mix fertilizer materials for sale or as preventing the free and unrestricted shipments of commercial fertilizer to manufacturers or manipulators who have registered their brands as required by the provisions of this Act.

§ 20. Constitutionality.) If any clause, sentence, paragraph, or part of this Act shall for any reason be judged invalid by any court of competent jurisdiction, such judgment shall not affect, impair, or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

§ 21. Repeal.) Chapter 19-20 of the North Dakota Century Code is hereby repealed.

Approved February 9, 1967.

GAME, FISH, AND PREDATORS

CHAPTER 173

S. B. No. 64
(Trenbeath, Christensen)

DEFINITION OF "BIG GAME"

AN ACT

To amend and reenact subsection 8 of section 20-01-01 of the North Dakota Century Code and to amend and reenact section 20-05-02 of the 1965 Supplement to the North Dakota Century Code, relating to the definition of "big game".

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

§ 1. Amendment.) Subsection 8 of section 20-01-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

8. "Big game" shall mean deer, moose, elk, big horn sheep, mountain goats, and antelope;

§ 2. Amendment.) Section 20-05-02 of the 1965 Supplement to 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 big game hunting license as prescribed in this title may take, kill, and transport one "big game" animal for each license held as defined in subsection 8 of section 20-01-01, 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.

Approved March 14, 1967.

CHAPTER 174

H. B. No. 809
(Boyum)FISH HATCHERIES, GAME AND FISH LICENSES, AND
POSSESSION OF GAME AND FISH

AN ACT

To create and enact subsection 19 of section 20-01-01 and section 20-06-15 of the North Dakota Century Code, relating to the definition and regulation of private fish hatcheries, and to amend and reenact sections 20-03-02, 20-03-07, 20-06-01, 20-06-10, and 20-07-01 of the North Dakota Century Code, relating to circumstances under which residents and nonresidents are not required to possess a hunting, trapping, or fishing license, the duration of fishing seasons, commercial sales of fish, and property rights in wild fur-bearing animals and fish, and declaring an emergency.

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

§ 1.) Subsection 19 of section 20-01-01 of the 1965 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

19. "Private fish hatchery" shall mean a body of water, whether natural or artificial, and any other facilities used, maintained, or operated by any private person, firm, or corporation for the propagation and production of fish for sale or planting in other waters. The commissioner may, by establishing rules and regulations, regulate the species of fish which may be raised in a private fish hatchery. No waters stocked by any state or federal governmental agency shall be considered a private fish hatchery.

§ 2. Amendment.) Section 20-03-02 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

20-03-02. When Licenses to Hunt, Fish, or Trap Not Required of Residents—Exceptions.) Subject to the other provisions of this title:

- *1. Any resident of this state, or any member of his family residing customarily with him, may hunt, fish, or trap during the open season without a license upon land owned or leased by such resident. No such person, however, shall hunt, take or kill deer without first having procured a big game hunting license as prescribed in

*Note: Subsection 1 of section 20-03-02 is also contained in chapter 180.

this title, but upon the execution and filing of an affidavit by any person owning or leasing a minimum of a quarter section of land within a district opened for the hunting of deer, such person shall receive a license to hunt deer upon such land described in said affidavit without charge therefor, and such license so issued without charge shall have endorsed on it the description of such land and it may be used to hunt deer only upon such land.

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.
3. Any resident of this state may fish in the waters of a private fish hatchery without a resident fishing license.

§ 3. **Amendment.)** Section 20-03-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

20-03-07. When Licenses to Fish Not Required of Nonresidents.) Subject to the other provisions of this title, any nonresident person under the age of twelve years may fish without first having obtained a nonresident fishing license as prescribed in this chapter and any nonresident may fish in the waters of a private fish hatchery without having first obtained a nonresident fishing license.

§ 4. **Amendment.)** Section 20-06-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

20-06-01. Fishing Seasons.) No person except as provided by sections 20-06-06 and 20-06-15 shall take, attempt to take, catch or kill any species of fish except during the open and lawful season for the taking thereof as provided in the governor's order or proclamation.

§ 5. **Amendment.)** Section 20-06-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

20-06-10. Commercial Sales of Fish.) No sale, barter or trading of fish of a species abounding in any waters of this state, shall be legal except that:

1. Persons authorized by section 20-06-06 may sell fish as directed by the commissioner.
2. Any person, firm or corporation that peddles fish, may sell such fish only after procuring a license so to do, issued by the commissioner upon the payment of the

required annual fee of one dollar. Such person, firm or corporation shall keep a full and complete record of the source of such fish as prescribed by the commissioner.

3. Any person, firm or corporation operating a permanently located wholesale fish market, jobbing house or other place for the wholesale marketing of fish or grocery store or retail fish market may sell such fish from its permanent location without obtaining a license, but must keep records of purchases.
4. Any person operating a private fish hatchery may sell fish owned or raised for market or for stocking waters.

§ 6.) Section 20-06-15 of the North Dakota Century Code is hereby created and enacted to read as follows:

20-06-15. Regulations Governing Private Fish Hatcheries.)

Any person operating a private fish hatchery shall not be subject to fishing seasons, limits, legal size restrictions, or other methods of taking fish as provided in any governor's proclamation. The commissioner is hereby authorized to promulgate rules and regulations governing the operation of private fish hatcheries. No license shall be required of any person for taking fish by angling at a licensed private fish hatchery operated in accordance with the rules and regulations of the commissioner, provided, however, the operator shall furnish to each person taking such fish a written certificate in such form as the commissioner shall prescribe, giving the number and description of the fish taken and such other information as the commissioner requires, whereupon such fish may be possessed, shipped, or transported within the state in like manner as fish taken by a resident under a license. The commissioner shall issue an annual license to operate said hatchery during a calendar year or a portion of a year upon application and the payment of twenty-five dollars by the owner or operator. Such license may be suspended for noncompliance with the commissioner's regulations.

§ 7. Amendment.) Section 20-07-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

20-07-01. Property Rights — Wild Fur-bearing Animals — Fish.) Any person, firm, or corporation raising and owning any fish or protected fur-bearing animal or in possession of the pelt of any wild animal lawfully obtained, shall have the same property rights therein as those enjoyed by owners of domestic animals or fish. They shall, however, be subject to all rules and regulations promulgated by the commissioner in regard

to the introduction into the state of such animals or their release, as provided in section 20-01-28.

§ 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, 1967.

CHAPTER 175

S. B. No. 65
(Trenbeath)

HUNTING FROM AIRCRAFT

AN ACT

To amend and reenact section 20-01-07 of the North Dakota Century Code, relating to hunting game from aircraft, and to repeal section 20-01-08 of the North Dakota Century Code, pertaining to hunting from aircraft.

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

§ 1. **Amendment.)** Section 20-01-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

20-01-07. Hunting Game from Aircraft Prohibited.) No person, while in flight in this state in any aircraft, shall intentionally kill or attempt to kill any game bird or game animal.

§ 2. **Repeal.)** Section 20-01-08 of the North Dakota Century Code is hereby repealed.

Approved February 27, 1967.

CHAPTER 176

H. B. No. 925

(Rundle, Simonson, Johnson(39), Unruh, Rivinius)

HUNTING ON PRIVATE PREMISES

AN ACT

To repeal section 20-01-18 of the North Dakota Century Code, relating to the enforcement of laws governing hunting on private premises.

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

§ 1. Repeal.) Section 20-01-18 of the North Dakota Century Code is hereby repealed.

Approved March 14, 1967.

CHAPTER 177

S. B. No. 60

(Morgan, Trenbeath, Ringsak, Kautzmann, Freed, Redlin)

HUNTING WITH CROSSBOW

AN ACT

To allow a person who is a paraplegic or has lost the use of one or both hands to hunt game with a crossbow.

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

§ 1. Certain Handicapped Persons May Hunt Game with Crossbow.) Any person who is a paraplegic or has lost the use of one or both arms and who otherwise complies with and qualifies under the licensing and other provisions of title 20 may hunt with a crossbow.

Approved March 14, 1967.

CHAPTER 178

H. B. No. 639
(Saugstad, Dick, Solberg(9), Schaffer)

RESIDENT HUNTING LICENSES

AN ACT

To amend and reenact subsection 1 of section 20-03-01 and subsection 1 of section 20-03-06 of the North Dakota Century Code, relating to authorizing the taking of game birds and game animals with a regular hunting license.

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

§ 1. Amendment.) Subsection 1 of section 20-03-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Hunt, catch, take, or kill any game bird or game animal without having a resident hunting license as prescribed in this chapter;

§ 2. Amendment.) Subsection 1 of section 20-03-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- *1. Hunt, catch, take, or kill any game bird or game animal without having a hunting license as prescribed in this chapter;

Approved March 14, 1967.

*Note: Subsection 1 of section 20-03-06 is also contained in chapter 181.

CHAPTER 179

H. B. No. 638

(Saugstad, Dick, Solberg(9), Schaffer)

GENERAL GAME LICENSES

AN ACT

To require residents and nonresidents to obtain a general game license before obtaining any specific license to hunt game birds or game animals.

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

§ 1.) No person shall acquire any resident or nonresident license to hunt, catch, take, or kill any game animal or game bird in this state unless he shall first obtain an annual general game license.

§ 2.) The state game and fish commissioner shall design and furnish, for sale to residents and nonresidents, an annual general game license upon application therefor on a form furnished by the commissioner and upon payment of a fee in the amount of fifty cents.

§ 3.) No person shall hunt, catch, take, trap, or kill any game animal or game bird in this state unless he shall have in his possession an annual general game license duly issued to such person, together with the specific license required under the laws of this state.

§ 4.) A stamp may be prepared by the commissioner to be affixed to a general game license in place of each separate game animal or bird hunting license.

Approved March 14, 1967.

CHAPTER 180

H. B. No. 636

(Burke, Metzger, Lang, Brown, Boustead, Wagner)

PROPERTY OWNERS' AND LESSEES' GAME
AND FISH LICENSES

AN ACT

To amend and reenact subsection 1 of section 20-03-02 of the North Dakota Century Code, relating to game and fish licenses required of owners and lessees of land.

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

§ 1. **Amendment.)** Subsection 1 of section 20-03-02 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

- *1. Any resident of this state, or any member of his family residing customarily with him, may hunt, fish, or trap during the open season without a license upon land owned or leased by such resident. No such person, however, shall hunt, take or kill deer without first having procured a big game hunting license as prescribed in this title, but upon the execution and filing of an affidavit by any person owning or leasing a minimum of a quarter section of land within a district opened for the hunting of deer, such person shall receive a license to hunt deer upon such land described in said affidavit without charge therefor, and such license so issued without charge shall have endorsed on it the description of such land and it may be used to hunt deer only upon such land. No statement from the county register of deeds or the county agricultural stabilization committee as to the ownership, leasing, or operating of any lands shall be required on the affidavit herein provided for;

Approved March 14, 1967.

*Note: Subsection 1 of section 20-03-02 is also contained in chapter 174.

CHAPTER 181

S. B. No. 111
(Morgan, Nasset, Redlin)

HUNTING BY NONRESIDENTS

AN ACT

To amend and reenact sections 20-03-06 and 20-03-12 of the North Dakota Century Code, relating to hunting by nonresidents and nonresident hunting licenses and fees.

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

§ 1. Amendment.) Section 20-03-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

20-03-06. Licenses to Hunt, Trap, or Fish Required of Nonresidents—Penalty.) No nonresident of this state except as otherwise provided in sections 20-03-05 and 20-03-07, shall:

*1. Hunt, catch, take, or kill any game bird without having a hunting license as prescribed in this chapter;

2. Trap, catch, attempt to catch, take or kill any protected fur-bearing animal unless such nonresident is a resident of a state which permits trapping by residents of North Dakota and has obtained a nonresident trapping license as prescribed in this chapter;

3. Catch, attempt to catch, take, or kill any fish without having a nonresident fishing license as prescribed in this chapter;

4. Hunt, catch, take, or kill any unprotected bird or animal without having a predator hunting license as prescribed in this chapter. Any person who shall violate any provision of this section shall be guilty of a misdemeanor and shall be punished by a fine of not less than fifty dollars nor more than one hundred dollars and costs of prosecution, 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. Each violation of this section shall be a distinct and separate offense.

§ 2. Amendment.) Section 20-03-12 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

*Note: Subsection 1 of section 20-03-06 is also contained in chapter 178.

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 three 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 two dollars;
10. For a resident family fishing license, the sum of four dollars;
11. For a nonresident predator hunting license, the sum of five dollars.

Approved February 25, 1967.

CHAPTER 182

S. B. No. 240
(Trenbeath, Pyle)

ISSUANCE OF GAME LICENSES

AN ACT

To amend and reenact section 20-03-21 of the North Dakota Century Code, relating to the issuance of game licenses.

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

§ 1. Amendment.) Section 20-03-21 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

20-03-21. Issuance of Licenses—Who to Issue—County Auditor May Appoint Agents Who Shall Receive Service Fees—Disposition of Proceeds.) All hunting, trapping, fishing, and taxidermists' licenses shall be issued by the several county auditors, the commissioner, the deputy commissioner, and the bonded game wardens. The deputy commissioner and each bonded game warden shall transmit to the commissioner all moneys collected from the issuance of licenses. For each license issued by him, the county auditor shall collect the charges authorized under this title and shall record the same in his record of cash received. He shall retain as his compensation for the issuance of each resident hunting, fishing, or trapping license the sum of ten cents; for the issuance of each non-resident hunting or trapping license the sum of one dollar; and for the issuance of each nonresident fishing license the sum of twenty-five cents.

The county auditor may appoint agents to distribute hunting and fishing licenses. Such agents may charge the purchaser of any hunting, fishing or trapping license or stamp a service fee of fifteen cents. Services fees shall be retained by the agent. The remainder of the license fees shall be deposited with the county treasurer at least once each month, and not later than three days after the close of the month, accompanied by a report showing the amounts received from the sale of each type of license, the amount retained, and the net amounts deposited. The county treasurer shall credit the fees so deposited to a separate account and shall hold such fees, subject to warrant for payment thereof drawn by the county auditor in favor of the state game and fish commissioner. The commissioner shall deposit all receipts from the issuance of licenses or stamps received by him with the state treasurer to be credited to the game and fish fund.

Approved March 14, 1967.

CHAPTER 183

S. B. No. 354
(Coughlin, Decker)

NONRESIDENT SHIPPING OF UPLAND GAME
AND MIGRATORY WATERFOWL

AN ACT

To create and enact section 20-03-28.1 of the North Dakota Century Code, relating to the shipment of upland game and migratory waterfowl by nonresidents licensed to hunt in this state.

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

§ 1.) Section 20-03-28.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

20-03-28.1. Transportation of Upland Game and Migratory Waterfowl by Nonresidents Having a Hunting License.) Any nonresident having a nonresident hunting license who is lawfully in possession of any upland game or migratory waterfowl may ship by common carrier, upon identifying himself by displaying his nonresident license, such upland game or migratory waterfowl if such shipment is carried openly for the inspection of its contents and is plainly marked with tags issued by the commissioner. The tags issued by the commissioner under the authority of this section shall be so designed that they may be used only once. Any person who shall ship upland game or migratory waterfowl not properly tagged as required by this section shall be guilty of a misdemeanor.

Approved March 14, 1967.

CHAPTER 184

H. B. No. 597

(Aas, Allen, Peterson(1), Peterson(5), Aafedt)

MISREPRESENTATIONS IN APPLICATION FOR LICENSES

AN ACT

To create section 20-03-35.1 of the North Dakota Century Code, relating to applications for special antelope licenses, and to amend and reenact section 20-03-35 of the North Dakota Century Code, relating to misrepresentation in application for license or permit.

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

§ 1. **Amendment.)** Section 20-03-35 of the 1965 Supplement to 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 except as provided in section 20-03-35.1 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 or more than thirty days, or by both such fine and imprisonment.

§ 2.) Section 20-03-35.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

20-03-35.1. Processing Fee for Application for Antelope License When Not Eligible.) Any person who shall make application for a special resident antelope license when by any law or proclamation such person is ineligible to apply for such license because of any waiting period, the remitted fee required for such license shall be determined to be a fee for processing the application to determine such ineligibility and shall not be returned by the state game and fish department to such applicant. However, the commissioner shall notify the applicant that he is ineligible for such reason. The fees so received by the department pursuant to the provisions of this section shall be deposited in the state game and fish fund.

Approved February 28, 1967.

CHAPTER 185

H. B. No. 760
(Kelsch)

TRAINING OF BIRD DOGS

AN ACT

To amend and reenact section 20-04-09 of the North Dakota Century Code, relating to when bird dogs may not be trained or permitted to run loose.

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

§ 1. **Amendment.)** Section 20-04-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

20-04-09. When Bird Dogs Not To Be Trained or Permitted to Run Loose—Retrievers May Be Used.) No person, between the first day of April and the following fourteenth day of July of each year, both dates inclusive, shall train or run any dog or dogs known as "bird dogs", including pointers, setters, or droppers, or allow any such dog to run loose in fields or upon lands which are apt to be frequented by game birds or on which game birds may be found. This section shall not be construed as prohibiting the use of dogs for retrieving water birds, including any or all of the several species of ducks and geese which it is lawful to hunt and kill; nor shall it be construed as prohibiting the use of retrievers or spaniels for the purpose of retrieving dead or wounded upland game birds during the open season thereon.

Approved March 3, 1967.

CHAPTER 186

H. B. No. 744
(Kelsch)

METHODS OF TAKING FISH

AN ACT

To amend and reenact section 20-06-07 of the North Dakota Century Code, relating to methods of taking fish.

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

§ 1. **Amendment.)** Section 20-06-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

20-06-07. Illegal Methods for Taking Fish.) No person except as provided in sections 20-06-05 and 20-06-06 shall lay, set or use any drug, poison, lime, medicated bait, fish berries, dynamite or other lethal or injurious substance whatever; or lay, stretch or place any tip-up snare, trap, set or trot line, wire string, rope or cable of any sort in any of the waters of this state for the purpose of catching, taking, killing or destroying any fish. However, any person may take minnows by the use of a minnow trap or dip net not exceeding twenty-four inches in diameter or thirty-six inches in depth. Except as otherwise provided for in this section, dip nets may only be used as an aid in landing fish which have been legally taken by hook and line. One minnow trap per license holder, other than those holding bait vendor's license, may be used for the purpose of taking bait minnows. Such trap shall not be larger than specified in the governor's proclamation and shall be emptied at least once in every forty-eight hour period.

Approved March 14, 1967.

CHAPTER 187

S. B. No. 287
(Wenstrom)

SPEARING OF FISH AND FISH HOUSES

AN ACT

Authorizing the spearing of fish and to amend and reenact section 20-06-08 of the North Dakota Century Code, relating to licensing fish houses.

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

§ 1. Spear Fishing from Dark Houses Through the Ice.) Fish may be taken by spearing from dark houses through the ice. The seasons for such spear fishing and the species of fish which may be taken shall be provided for by the governor's order or proclamation. The license for fishing provided for in chapter 20-03 of the North Dakota Century Code shall include the privilege of spearing fish from a dark house through the ice. All dark houses shall be licensed pursuant to section 20-06-08 of the North Dakota Century Code.

§ 2. Amendment.) Section 20-06-08 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

20-06-08. Fish Houses — License — Removal.) No person except as provided in section 20-06-06 shall erect, have or maintain on the ice in any waters of this state any fish house used or to be used to protect one while engaged in fishing through the ice or a dark house used or to be used for spear fishing, without first obtaining a separate license for each such unit placed in use. Licenses shall be issued by the commissioner, for the period between December fifteenth and the end of the winter fishing season as established by the governor's proclamation or by executive order of the commissioner, upon the payment of a license fee of one dollar for each unit, and shall be subject to such rules and regulations as the commissioner may adopt governing the construction, maintenance and use of such units. Each licensed unit shall have inscribed on the exterior thereof, in readily distinguishable characters at least six inches high, the license number and the name of the owner. Each unit shall be removed from the ice within five days after the close of the period for which the license was issued. Failure to so remove such unit shall be deemed an abandonment and the commissioner is authorized to remove or destroy such abandoned units.

Approved March 14, 1967.

CHAPTER 188

H. B. No. 807
(Freeman, Fossum, Mueller)

POISONING OF ANIMALS, INSECTS, AND BIRDS

AN ACT

To amend and reenact sections 12-18-07 and 20-16-01 of the North Dakota Century Code, relating to the poisoning of predatory animals, insects, and rodents and the disposal of the same, and to authorize the poisoning of certain non-game species of birds.

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

§ 1. **Amendment.)** Section 12-18-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-18-07. Laying Out Poison — Punishment — Exception.) Every person who shall lay out strychnine or other poison within the limits of any city or village, or within one mile of any dwelling house, barn, stable, or outbuilding used at the time for the keeping or shelter of horses, cattle, sheep, or swine, or within one-half mile of any traveled highway, shall be guilty of a misdemeanor. Nothing in this section shall be construed to prohibit the putting out at any time of poisoned grain or bait for the purpose of killing gophers, grasshoppers, prairie dogs, and other food, crop, and tree destroying rodents or insects, or for the purpose of exterminating predatory animals, when such action is taken under warrant or authority of any law of this state or for the United States. Certain non-game species of birds committing crop depredations or causing substantial economic loss may be controlled by the department of agriculture by the use of toxicants as approved by the state game and fish commissioner, who is hereby authorized to promulgate such rules and regulations for such a purpose.

§ 2. **Amendment.)** Section 20-16-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

20-16-01. State to Cooperate with Federal Bureau of Sport Fisheries and Wildlife and Other Agencies in Destruction of Predatory Animals and Injurious Field Rodents.) The commissioner of agriculture may cooperate with the United States department of the interior, bureau of sport fisheries and wildlife, in the control and destruction of coyotes, wolves, bobcats, and foxes in this state that are injurious to livestock, poultry, and game animals and birds, and in the control and destruction

of injurious field rodents in rural areas, and certain non-game species of birds committing crop depredations or causing substantial economic loss as approved by the game and fish commissioner, who is hereby authorized to promulgate such rules and regulations as necessary for the control of such birds, in accordance with organized and systematic plans of the department of the interior for the destruction of such predatory animals, birds, and injurious rodents. For this purpose the commissioner may enter into written agreements with the bureau of sport fisheries and wildlife and the state game and fish commissioner covering the methods and procedure to be followed in the control and destruction of such predatory animals, birds, and injurious rodents, the extent of supervision by either or both the commissioner of agriculture and the bureau of sport fisheries and wildlife, and the use and expenditure of the funds appropriated therefor by the legislative assembly. The commissioner of agriculture, in cooperation with the bureau of sport fisheries and wildlife may enter into agreements with other governmental agencies and with counties, associations, corporations, or individuals when such cooperation is deemed to be necessary to promote the control and destruction of such predatory animals, birds, and injurious rodents.

Approved March 15, 1967.

GOVERNMENTAL FINANCE

CHAPTER 189

S. B. No. 59
(Longmire, Roen, Ringsak)

DEBT LIMITATIONS OF POLITICAL SUBDIVISIONS

AN ACT

To amend and reenact section 21-03-04 and subsections 1, 5, and 6 of section 21-03-06 of the North Dakota Century Code to provide that debt limitations of certain political subdivisions shall not exceed the limitations established by section 183 of the state Constitution.

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

§ 1. **Amendment.**) Section 21-03-04 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-03-04. Grant of Power to Borrow—General Limitations of Indebtedness.) Every municipality may borrow money and issue municipal obligations thereof for the purpose specified and by the procedure provided in this chapter, and for no other purpose and in no other manner, except as otherwise provided in section 21-03-02. No municipality shall incur indebtedness in any manner or for any purpose in an amount which, with all other outstanding indebtedness of the municipality, shall exceed five percent of the assessed value of the taxable property therein, except:

1. Any incorporated city, by a two-thirds vote of the qualified voters thereof voting upon said question at a general or special election, may increase such limit of indebtedness three percent on such assessed value beyond said five percent limit, and a school district, by a majority vote of the qualified voters thereof voting upon said question at a general or special election, may increase such limitation of indebtedness five percent on such assessed value beyond the said five percent limit;
2. Any county or city, when authorized by a majority vote of the qualified voters thereof voting upon said question at a general or special election, may issue bonds upon any revenue producing utility owned by such county or city, for the purchase or acquisition of such utility, or the building or establishment thereof, in amounts not

exceeding the physical value of such utility, industry, or enterprise;

3. Any incorporated city, if authorized by a majority vote of the qualified voters thereof voting upon said question at a general or special election, may become indebted in any amount not exceeding four percent of such assessed value, without regard to the existing indebtedness of said city, for the purpose of constructing or purchasing waterworks for furnishing a supply of water to the inhabitants of such city or for the purpose of constructing sewers, and for no other purposes whatever, but the aggregate of such additional indebtedness for waterworks and sewers never shall exceed such four percent over and above the limitations of indebtedness in this section heretofore prescribed.

All bonds or obligations in excess of the amount of indebtedness permitted by this chapter, given by any municipality as herein defined, shall be void.

§ 2. Amendment.) Subsections 1, 5, and 6 of section 21-03-06 of the 1965 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

1. By any county:
 - a. To provide county buildings, but all outstanding unpaid bonds for this purpose shall not exceed in amount at any one time one and one-half percent of the value of the taxable property in such county, except that any county maintaining a county agricultural and training school may issue bonds in excess of such limit to provide buildings for such school but all outstanding unpaid bonds for such purpose shall not exceed in amount at any one time one percent of the value of the taxable property in such county;
 - b. To construct or aid in the construction of bridges within or without such county, but all outstanding unpaid bonds for such purpose shall not exceed in amount at any one time one percent of the value of the taxable property in such county; and
 - c. To provide funds for the original construction and for the improvement and maintenance of highways, but all outstanding unpaid bonds for these purposes shall not exceed in amount at any one time one percent of the value of the taxable property in such county.

5. By any township:
 - a. For the erection of a township hall and the purchase of a site therefor; and
 - b. For the construction of roads and bridges, but all outstanding unpaid bonds for road and bridge purposes shall not exceed in amount at any one time one and one-half percent of the value of the taxable property in such township.
6. By any park district which constitutes a distinct municipality, to provide for acquiring, laying out, and improving parks, parkways, boulevards, and pleasure drives, and to acquire land for these purposes, but such indebtedness shall not at any time exceed one percent of the value of the taxable property in such park district.

Approved February 15, 1967.

CHAPTER 190

S. B. No. 332
(Lowe, Freed)

GENERAL OBLIGATION BOND ELECTIONS

AN ACT

To amend and reenact section 21-03-11 of the North Dakota Century Code, relating to when general obligation bond elections are to be held.

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

§ 1. Amendment.) Section 21-03-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-03-11. Elections — When and How Called and Held.) Upon or after the adoption of an initial resolution by the governing body, or at the first meeting of the governing body held after the filing of a petition and proposed initial resolution by the voters as specified in section 21-03-10, subsection 2, the governing body by resolution shall provide for submitting to the qualified voters of the municipality the question whether such initial resolution shall be approved. The date of such election shall be not less than twenty days after the passage of such initial resolution by the governing body or in the filing of a sufficient petition therefor by the voters. The governing body shall designate the date of such election, the polling hours,

and polling place thereof, which shall be the same as for municipal elections therein, and shall appoint an inspector, two judges, and two clerks of election for each polling place. In case of the absence of any such official of election, or his inability to act at the opening of the polls, the remaining election officials for the precinct shall appoint a qualified voter to fill such vacancy. Such election shall be conducted and the returns thereof made and canvassed as in the case of elections of members of the governing body of such municipality.

March 14, 1967.

CHAPTER 191

H. B. No. 819
(Backes, Fossum)

CUSTODIANS OF SCHOOL AND PUBLIC FUNDS

AN ACT

To amend and reenact section 11-14-13, subsection 6 of section 15-29-12, and sections 21-03-40 and 21-04-18 of the North Dakota Century Code, providing that school district treasurers may be custodians of sinking funds of school districts when authorized by the school board and that county treasurers shall remit school funds monthly.

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

§ 1. Amendment.) Section 11-14-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-14-13. Treasurer's Accounts with School Districts—Disbursements.) 1. The county treasurer shall keep a regular account with each school district in the county. He shall charge himself in such account with: the amount collected on taxes levied by the governing body of the school district; all sums apportioned to the district by the county superintendent of schools or other authority; and all sums received from the district. He shall credit himself with: all payments made to the treasurer of the district and shall distinguish between items paid by apportionment, from county taxes, and from other sources; all payments for redemption of or endorsement upon school district warrants in the collection of taxes; and all items of legal fees for collection and other duties performed.

2. Whenever a school district is authorized by law to be the custodian of its own funds and exercises such authorization,

the county treasurer shall remit to such school district the funds for which the school district is custodian on or before the tenth day of each calendar month.

§ 2. **Amendment.)** Subsection 6 of section 15-29-12 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

6. Shall receive and have custody of all moneys from every source which the school board of the district is authorized to receive.

§ 3. **Amendment.)** Section 21-03-40 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-03-40. Sinking Funds — Custodian.) The county treasurer shall be custodian of each sinking fund for the payment of bonds issued by each taxing district within the county except in case of any city or park district having a population of more than one thousand and any school district which upon the passage of a resolution by the school board chooses to have its treasurer be custodian of such sinking fund. In the case of any city or park district having a population of more than one thousand, or a school district approving a resolution as provided in this section, the treasurer of the respective city, park district, or school district shall be custodian of each of its sinking funds.

§ 4. **Amendment.)** Section 21-04-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-04-18. Interest Rates.) Depositories of public funds in this state shall pay substantially the same rate of interest thereon as such banks pay upon individual deposits.

Approved March 15, 1967.

CHAPTER 192

S. B. No. 251

(Melland, Coughlin, Larsen(18), Wilhite)

CITY GENERAL OBLIGATION BONDS FOR STREET
IMPROVEMENTS

AN ACT

To create and enact a new subsection 5 of section 21-03-07 of the North Dakota Century Code, relating to the issuance of general obligation bonds of cities, by resolution of the governing body subject to protest by taxpayers, for the purpose of street improvements on arterial streets including federal and state highways and at intersections with streams, drains, and railways, and improvements incidental to urban renewal projects.

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

§ 1.) A new subsection 5 of section 21-03-07 of the North Dakota Century Code is hereby created and enacted to read as follows:

5. The governing body of any city may also by resolution adopted by a two-thirds vote authorize and issue general obligation bonds of the city for the purpose of providing funds to pay the cost of any improvement of the types stated below, to the extent that the governing body determines that such cost should be paid by the city and should not be assessed upon property specially benefited thereby; provided that the initial resolution authorizing such bonds 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 five 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. This procedure is authorized for the financing of the following types of improvements:
 - a. Any street improvement, as defined in subsection 2 of section 40-22-01, to be made in or upon any federal or state highway or any other street designated by ordinance as an arterial street.
 - b. The construction of a bridge, culvert, overpass, or underpass at the intersection of any street with a

stream, watercourse, drain, or railway, and the acquisition of any land or easement required for that purpose.

- c. Any improvement incidental to the carrying out of an urban renewal project, the issuance of bonds for which is authorized by subsection 4 of section 40-58-13.

Nothing herein shall be deemed to prevent any municipality from appropriating funds for or financing out of taxes, special assessments or utility revenues any work incidental to any such improvement, in the manner and to the extent otherwise permitted by law.

Approved March 8, 1967.

CHAPTER 193

H. B. No. 592
(Bier, Giffey)

REPORTS OF STATE TREASURER

AN ACT

To repeal section 21-04-20 of the North Dakota Century Code, relating to reports of the state treasurer.

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

§ 1. Repeal.) Section 21-04-20 of the North Dakota Century Code is hereby repealed.

Approved February 15, 1967.

CHAPTER 194

S. B. No. 56

(Lips, Torgerson, Chesrown)

INVESTMENTS OF SURPLUSES BY POLITICAL
SUBDIVISIONS

AN ACT

To amend and reenact section 21-06-07 of the North Dakota Century Code, relating to investments of surpluses by political subdivisions.

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

§ 1. Amendment.) Section 21-06-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

***21-06-07. Political Subdivisions May Invest Surpluses.)** From and after the passage and approval of this section, it shall be lawful for counties, cities, villages, school districts, park districts and townships in this state to invest surpluses in their general fund, or surpluses in any special or temporary fund, in bonds, treasury bills and notes or other securities which are a direct obligation of the treasury of the United States or of an instrumentality thereof, provided, however, that bonds, treasury bills and notes or other securities so purchased shall be taken into consideration in making levies for the ensuing year, and when funds are needed for current expenses, the governing board and authorities of such municipalities shall be authorized to convert said obligations into cash.

Approved February 15, 1967.

***Note:** Section 58 of chapter 323, 1967 S.L., also amended section 21-06-07.

CHAPTER 195

H. B. No. 733

(Backes, Erickson(26), Stoltenow, Dahl, Allen, Sanstead)

GOVERNMENT AUTHORITY TO CONTRACT WITH
UNITED STATES

AN ACT

To amend and reenact section 21-06-08 of the North Dakota Century Code, relating to the authority of the state or any department, division, bureau, commission, board, authority, agency or political subdivision thereof to contract with the United States of America or any agency thereof for the purchase of any equipment, supplies, materials or other property.

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

§ 1. **Amendment.)** Section 21-06-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-06-08. Authority to Contract with the Federal Government—Delegation of Authority.) The state or any department, division, bureau, commission, board, authority, agency or political subdivision thereof, may enter into any contract with the United States of America or with any agency thereof for the purchase or lease of any equipment, supplies, materials or other property without regard to provisions of law which require:

1. The posting of notices or public advertising for bids or of expenditures;
2. The inviting or receiving of competitive bids;
3. The delivery of purchases before payment;
4. The payment of the cost of the contract out of funds theretofore included in the budget of appropriations for the year, provided, however, that the governing body or executive authority, as the case may be of any department, division, bureau, commission, board, authority, agency or political subdivision of the state may designate by appropriate resolution or order any official or employee of its own to enter a bid or bids in its behalf at any sale of any equipment, supplies, materials or other property owned by the United States of America or any agency thereof, and may authorize said person to make any down payment, or payment in full, required in connection with such bidding.

Approved March 1, 1967.

CHAPTER 196

S. B. No. 343
(Sands, Ruemmele)

1967 BOND VALIDATING ACT

AN ACT

To amend and reenact sections 21-09-01 and 21-09-05 of the North Dakota Century Code, changing the title of "The 1965 Bond Validating Act" to "The 1967 Bond Validating Act", and relating to the application of chapter 21-09 of the North Dakota Century Code to bonds issued and proceedings taken prior to July 1, 1967.

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

§ 1. **Amendment.)** Section 21-09-01 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-09-01. Citation.) This chapter may be cited as "The 1967 Bond Validating Act".

§ 2. **Amendment.)** Section 21-09-05 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-09-05. Application of Chapter.) The provisions of chapter 21-09 relating to validation shall be applicable to all bonds issued and proceedings taken by any public body prior to July 1, 1967.

Approved March 7, 1967.

CHAPTER 197

S. B. No. 216
(Hernett, Meschke, Lips)

STATE TRUST FUND RESERVES

AN ACT

To amend and reenact section 21-10-08 of the 1965 Supplement to the North Dakota Century Code, relating to reserves and their percentage limitations and standards therefor in investing state trust funds.

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

§ 1. **Amendment.)** Section 21-10-08 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-10-08. Reserves — Percentage Limitations.) In order to meet claims and liabilities reserves shall be established and maintained in each of the funds in accordance with recommendations of the authorized fiduciaries thereof consisting of cash, bank of North Dakota certificates of deposit or short term United States government securities in amounts between one percent and ten percent of the assets of each fund.

The board may authorize temporary deviations from the amounts of such reserves in its sound discretion.

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.

Approved February 24, 1967.

CHAPTER 198

H. B. No. 715

(Aamoth, Hilleboe, Tweten, Haugland, Boustead)

INVESTMENTS OF PENSION AND OTHER FUNDS

AN ACT

To amend and reenact sections 18-11-13, 18-11-16, 40-45-06, and 40-46-08 of the North Dakota Century Code, relating to investments of surplus funds in the cities' employees' pension fund, policemen's pension fund and alternate firemen's association general fund and state fund.

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

§ 1. **Amendment.)** Section 18-11-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

18-11-13. Association State Fund and Association General Fund—Expenditures—Investment.) The moneys received by the association are to be kept in an "association state fund" or in an "association general fund". The moneys received from the state, city, or employee's salary contribution shall be deposited in the "association state fund" and may be expended only for the purposes named in section 18-11-14. All other moneys shall be deposited in the "association general fund" and may be expended for other purposes related to the general principles for which this chapter is established. The relief association shall manage and control all funds that come into its possession. Moneys in these funds may be invested in bonds of the United States of America, bonds of the state of North Dakota or any other state, in certificates of indebtedness of the state of North Dakota, in any bonds or certificates of indebtedness of any political subdivision of the state of North Dakota which constitute the general obligations of the issuing tax authority, or the bank of North Dakota or any other bank or savings and loan association which is insured by the United States of America. The board may also invest all or part of the moneys in these funds in other investments by selecting a funding agent or agents and establish an investment agreement contract regarding such funds. The contract shall authorize the funding agent or agents to hold and invest such funds for the board and such funds invested shall be placed for investment only with a firm or firms whose primary endeavor is money management, and only after a trust agreement or contract has been executed.

§ 2. **Amendment.)** Section 18-11-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

18-11-16. Disability Pensions—Qualifications.) Any member of the relief association who is unable because of physical or mental disability, to perform the duties of a fireman shall receive monthly a disability pension equal to fifty percent of the monthly salary of a first class fireman on January first of the year that the pension is being paid, unless such member is eligible for a larger service pension in which case he shall draw an amount equal to his service pension. No member shall receive a disability pension unless he is disabled for a period of at least seven consecutive days, at which time he shall be paid from the time of disability. However, no member shall receive a disability pension for the days he was reimbursed by the city for accumulated sick leave.

§ 3. **Amendment.)** Section 40-45-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-45-06. Investment of Surplus in Funds — Limitations.) At the end of the fiscal year, the board of trustees may invest any surplus left in the policemen's pension fund, but no part of the moneys realized from any tax levy shall be used for any purpose other than the payment of pensions. Such surplus funds may be invested in interest-bearing bonds of the United States or the state of North Dakota, or bonds or warrants of any county, township, or municipal corporation of this state which constitute the general obligations or contingent general obligations of the issuing tax authority, or investments with any federally insured bank or savings and loan association. All securities shall be deposited with the treasurer of the board for safekeeping. The board may also invest all or part of such surplus funds in other investments by selecting a funding agent or agents and establish an investment agreement contract regarding such surplus funds. The contract shall authorize the funding agent or agents to hold and invest such funds for the board and such funds shall be placed for investment only with a firm or firms whose primary endeavor is money management, and only after a trust agreement or contract has been executed.

§ 4. **Amendment.)** Section 40-46-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-46-08. Investment of Surplus in Fund—Limitations.) At the end of each fiscal year, the board of trustees may invest any surplus left in the city employees' pension fund, but no

part of the moneys realized from any tax levy shall be used for any purpose other than the payment of pensions. Such surplus funds may be invested in interest-bearing bonds of the United States or the state of North Dakota, or bonds or warrants of any county, township, or municipal corporation of this state which constitute the general obligations or contingent general obligations of the issuing tax authority, or investments with any federally insured bank or savings and loan association. All securities in which moneys belonging to the fund are invested shall be deposited with the treasurer of the board for safekeeping. The board may also invest all or part of such surplus funds in other investments by selecting a funding agent or agents and establish an investment agreement contract regarding such surplus funds. The contract shall authorize the funding agent or agents to hold and invest such funds for the board and such funds shall be placed for investment only with a firm or firms whose primary endeavor is money management, and only after a trust agreement or contract has been executed.

Approved March 15, 1967.

CHAPTER 199

S. B. No. 107

(Sorlie, Litten, Robinson)

(From Legislative Research Budget Committee Study)

TRANSFER OF GENERAL OBLIGATION AND KOREAN BONUS FUNDS

AN ACT

To provide for transferring balances from Korean bonus sinking fund to the general fund.

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

§ 1. **Transfer of Funds.**) All existing funds in the state treasurer's sinking fund for the state of North Dakota general obligation bonds, Korean conflict adjusted compensation series, in excess of those funds needed to redeem all outstanding bonds and interest coupons shall be transferred by the state treasurer to the general fund. Any additional income to the fund received after such transfer shall be transferred to the general fund by the state treasurer.

Approved March 14, 1967.

CHAPTER 200

S. B. No. 400

(Committee on Delayed Bills)

TRANSFER OF SPECIAL AUDITS AND TAYLOR
GRAZING ACT FUNDS

AN ACT

To provide for the transfer of funds in the state auditor special audits fund, and funds received by the state treasurer under the Taylor Grazing Act prior to 1963, to the general fund in the state treasury, and declaring an emergency.

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

§ 1. Transfer of Funds from State Auditor Special Audits Fund.) The remaining balance of the funds appropriated to the state auditor special audits fund by chapter 27 of the 1961 Session Laws, in the amount of \$14,431.63 are hereby transferred to the state general fund.

§ 2. Transfer of Funds Received Under Taylor Grazing Act Prior to 1963.) There being no adequate record of acreage in each county to permit an equitable distribution, the funds received by the state treasurer under the provisions of the Taylor Grazing Act, 43 United States Code 3151, prior to the year 1963, in the amount of \$20,575.22, are hereby transferred to the state general fund. The funds received after the year 1963 shall continue to be distributed as provided for in section 8 of chapter 201 of the 1963 session laws. (15-40-22.1)

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

Approved March 14, 1967.

HEALTH AND SAFETY

CHAPTER 201

S. B. No. 152
(Holand)

MEMBERSHIP OF STATE SAFETY COMMITTEE

AN ACT

To amend and reenact section 23-13-09 of the 1965 Supplement to the North Dakota Century Code, relating to membership of state safety committee.

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

§ 1. **Amendment.**) Section 23-13-09 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

Approved March 14, 1967.

CHAPTER 202

H. B. No. 624

(Strinden, Stone, Wagner, Unruh, McDonald(18))

FORMATION OF HEALTH DISTRICTS

AN ACT

To create and enact section 23-14-01.1 of the North Dakota Century Code, relating to the formation of health districts.

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

§ 1.) Section 23-14-01.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

23-14-01.1. Formation of County-City Health Districts.) Notwithstanding any provisions of this chapter, a county not included within any health district as provided in this section may by a resolution adopted by the board of county commissioners of such county contract with the governing body of a city within such county which has a health department approved by the state department of health to provide health services throughout the county and in other cities within the county which do not have approved health departments. Such contract shall be entered into pursuant to section 54-40-08. Further, the governing body of a city having a health department approved by the state department of health may enter into a contract with the board of county commissioners of the county in which the city is located to provide health services to the county and cities therein which do not have an approved health department, which contract shall be entered into pursuant to the provisions of section 54-40-08. Any contract entered into under the authority of this section may be renegotiated after existing one year by mutual agreement between the governing bodies which are parties to the contract or by one of the contracting parties giving notice by certified mail to the other contracting party. Such notice shall specify a time and place for the contracting parties to meet and renegotiate the existing contract. The time specified in the notice shall be no sooner than fifteen days after the mailing of the certified notice. When the contract is executed the health department of the city shall exercise and perform all the necessary powers and duties pursuant to all health laws of this state, and any provisions of this chapter relating to organizing district boards of health shall not apply. The county so organized pursuant to a contract

entered into under this provision shall be considered a health district for all purposes by the state department of health.

Approved February 27, 1967.

CHAPTER 203

H. B. No. 699
(Haugland, Olienyk)

ACQUISITION AND DISPOSAL OF HEALTH UNIT PROPERTY

AN ACT

Relating to district health units acquiring and disposing of real and personal property and providing for disposition of same upon dissolution.

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

§ 1. Acquiring and Disposing of Property.) The district board of health may acquire by lease, purchase, construction or gift for district health office use and control both real and personal property for all purposes authorized by law or necessary to the exercise of the powers granted herein. The district board of health may also convey, sell, dispose of or otherwise transfer personal and real property acquired as provided herein. If upon dissolution of a district health unit there remains any balance in the treasury of the district after all obligations have been paid, the balance shall be paid into the general fund of the counties comprising the health district in proportion to the mill levy most recently assessed for budget purposes under the provisions of this chapter.

Approved March 6, 1967.

CHAPTER 204

S. B. No. 154

(Torgerson, Kelly(24), Wilhite, Becker, Longmire)

LICENSING OF DISTRIBUTORS AND RETAILERS
OF FIREWORKS

AN ACT

To amend and reenact section 23-15-04 of the North Dakota Century Code, relating to fireworks; and providing for licensing of distributors and retailers, and declaring an emergency.

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

§ 1. Amendment.) Section 23-15-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-15-04. Exceptions.) Nothing in this chapter shall be construed to prohibit the following:

1. Any licensed wholesaler, dealer, or jobber from selling at wholesale such fireworks as are not herein prohibited;
2. The sale of any kind of fireworks for shipment directly out of the state;
3. The use of fireworks by airplanes, railroads, or other transportation agencies for signal purposes or illumination;
4. The sale or use of blank cartridges for a show or theatre, or for signal or ceremonial purposes in athletics or sports, or for use by military organizations.

Application for a license as distributor shall be made to the state fire marshal on forms prescribed by him. Application for a license as a retailer shall be made to the county sheriff on forms prescribed by the state fire marshal. Each application shall be accompanied by the required fee, which shall be \$250.00 for a distributor's license and \$5.00 for a retailer's license. Fees for distributors' licenses shall be deposited in the general fund in the state treasury and fees for retailers' licenses shall be deposited in the county general fund. The license shall be good only for the calendar year in which issued and shall at all times be displayed at the place of business of the holder thereof. Such distributors' and retailers' licenses shall be in addition to any other license required by law or municipal ordinance. Provided, however, that the

licensing provisions of this section shall not apply to a retailer who is required to become licensed by any municipality and any license fee levied by such municipality shall be deposited in the municipality's general fund.

It shall be unlawful for any person not licensed as a wholesaler or retailer to bring any fireworks into this state, and it shall be unlawful for any retailer in this state to sell any fireworks which have not been purchased from a wholesaler licensed under the provisions of this Act. Any persons licensed under the provisions of this Act shall keep available for inspection by the state fire marshal or any sheriff, police officer, constable or local fire marshal a copy of each invoice for fireworks purchased as long as any fireworks included on such invoice are held in his possession, which invoice shall show the license number of the wholesaler from whom the purchase was made.

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

Approved March 14, 1967.

HIGHWAYS, BRIDGES, AND FERRIES

CHAPTER 205

H. B. No. 619
(Larson(16), Moquist)

LOCATION OF SIGNS PRECLUDING THE CULTIVATION OF RIGHT-OF-WAY

AN ACT

To require the highway department to place all new signs which preclude the cultivation of the right-of-way alongside of existing highway signs, right-of-way posts, and natural obstructions to require the relocation of all existing such signs when requested, wherever such are not already located alongside of existing highway signs and right-of-way posts.

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

§ 1. Location of Signs Precluding the Cultivation of Right-of-Way.) All signs erected by the highway department, after the effective date of this Act, which give notice of the prohibition against the cultivation of the right-of-way, shall be located as near as possible to right-of-way posts, or natural obstructions. All existing signs of such nature shall be relocated according to the provisions contained in this section, and when requested by the landowner and a more suitable site can be agreed upon by the landowner and the state highway department.

Approved February 22, 1967.

CHAPTER 206

H. B. No. 634

(Sanstead, Sandness, Knudson, Bier)

HIGHWAY ENGINEERING AND TECHNICIAN SCHOLARSHIPS

AN ACT

To authorize the establishment of highway engineering and technician scholarships at state institutions of higher learning, to authorize the expenditure of highway department operating funds therefor, and to repeal sections 24-02-07.1 and 24-02-07.2 of the North Dakota Century Code.

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

§ 1. Engineering and Technician Scholarships Authorized.)

The state highway commissioner is hereby authorized to establish not over sixteen continuing scholarships for study in civil engineering, civil engineering technology, and industrial drafting and design technology at institutions of higher learning in this state. Expenditure of not over ten thousand dollars annually from highway operating funds is hereby authorized. No individual shall receive scholarship payments in any year exceeding eight hundred dollars nor a total exceeding twenty-four hundred dollars and an executed contract of employment shall be a prerequisite. Before any student shall receive the benefits authorized by this section he shall enter into a contract with the North Dakota state highway department, which shall provide that such student shall upon graduation accept employment with the North Dakota state highway department for a period of time at least equal to the time he received scholarship benefits, the salary to be in the amount equalling current salaries paid to civil engineering graduates. In the event such student shall be inducted into the armed forces before graduation, such education may then be completed upon his return to civil life, and in the event such induction into the armed services is made after graduation the employment contract shall not take effect until after such period of service in the armed forces has been completed. Leave of absence without pay will be granted to one whose induction occurs during the period of the life of such contract and the employment will be resumed for the balance of the contract period after such employee has been discharged from the service.

If such student fails to graduate with a degree in civil engineering, or fails to accept employment with the North Dakota state highway department as above provided, such

student shall repay the North Dakota state highway department, with interest at the rate of three percent per annum, all sums received by him in scholarship benefits under the contract herein provided, such repayment to be made within a period equal to the time he received such benefits. For the purpose of this section defenses of minority or statute of limitations are hereby removed as to any applicant granted a loan by the commissioner and such contracts shall in all respects be legal and binding. Salary increases to employees having received scholarships by virtue of this section shall be based on the same considerations as other engineers employed by the state highway department.

The commissioner, with the cooperation and concurrence of the board of higher education, shall prescribe rules for determining the selection of recipients, qualifications, and courses of study. Such rules may cover any areas as may be necessary to assure a source of qualified technically trained employees for the department.

§ 2. Repeal.) Sections 24-02-07.1 and 24-02-07.2 of the North Dakota Century Code are hereby repealed.

Approved March 14, 1967.

CHAPTER 207

S. B. No. 116
(Larson(17), Longmire)

HIGHWAY DEPARTMENT RECORDS

AN ACT

To amend and reenact subsection 3 of section 24-02-11 of the North Dakota Century Code, relating to the records required to be maintained by the highway department.

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

§ 1. Amendment.) Subsection 3 of section 24-02-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. The amount of road equipment and materials purchased and when and where and from whom purchased. Such book also shall show the price paid for each item. The original invoice or a photographic copy thereof shall form a part of the permanent files and records in said department.

Approved February 27, 1967.

CHAPTER 208

S. B. No. 138

(Lips)

HIGHWAY LETTING BIDS

AN ACT

To amend and reenact section 24-02-20 of the 1965 Supplement to the North Dakota Century Code, relating to proposal guarantees for bidders at highway lettings to eliminate the requirement that certified or cashier's checks be drawn only on North Dakota banks.

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

§ 1. **Amendment.)** Section 24-02-20 of the 1965 Supplement to the North Dakota Century Code 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 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 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.

Approved February 24, 1967.

CHAPTER 209

H. B. No. 660
(Hilleboe)

HIGHWAY DEPARTMENT BUILDING LIMITATIONS

AN ACT

To amend and reenact section 24-02-39 of the North Dakota Century Code, relating to highway department building limitations.

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

§ 1. **Amendment.)** Section 24-02-39 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

24-02-39. Highway Department—Building Limitation.) The state highway department shall not construct or cause to be constructed any building costing in excess of eighteen thousand dollars unless the department has received a specific appropriation from the legislative assembly for such purpose.

Approved February 24, 1967.

CHAPTER 210

H. B. No. 825
(Diehl, Halcrow, Dornacker, Jenkins, Kingsbury)

SECTION LINE ROADS

AN ACT

To amend and reenact section 24-07-03 of the 1965 Supplement to the North Dakota Century Code, relating to the closing of section line roads.

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

§ 1. **Amendment.)** Section 24-07-03 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

24-07-03. Section Lines Considered Public Roads—Closing Same Under Certain Conditions.) In all townships in this state outside the limits of incorporated cities and villages, the congressional section lines shall be considered public roads, to be opened to the width of two rods on each side of

such section lines, where the same have not been opened already upon the order of the board having jurisdiction, without any survey being had, except where it may be necessary on account of variations caused by natural obstacles, subject, however, to all the provisions of this chapter in relation to assessments of damages.

The county commissioners, if petitioned by the adjoining landowners, are authorized to close section line roads or portions thereof which are intersected by interstate highways causing such section line road to be a dead end, providing the closing of such dead end section line road does not deprive adjacent landowner access to his property. After such section line roads are closed, they may be leveled and farmed by the adjacent landowners or tenants; provided, however, that if drainage is interfered with due to the farming operations, alternate means of drainage must be provided for by the landowners or tenants farming such lands.

Approved March 3, 1967.

CHAPTER 211

H. B. No. 645

(Wilkie, Erickson(4), Boustead, Kingsbury)

OBSTRUCTION OF HIGHWAYS

AN ACT

To amend and reenact subsection 2 of section 24-12-02 of the North Dakota Century Code, relating to the obstruction of highways and to authorize any official having jurisdiction over a highway to order work or improvement thereon.

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

§ 1. Amendment.) Subsection 2 of section 24-12-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. Willfully and knowingly obstruct or plow up, or cause to be obstructed or plowed up, any public highway or right-of-way, except by order of the officials having jurisdiction over such highway for the purpose of working or improving the same; or

Approved February 22, 1967.

CHAPTER 212

H. B. No. 679

(Hilleboe, Haugland, Peterson(5), Wells)

ESTABLISHMENT OF JUNKYARDS ADJACENT TO HIGHWAYS

AN ACT

Restricting the establishment of junkyards within one thousand feet of the nearest edge of the right-of-way on the state highway system and for the screening of any and all junkyards which are allowed to remain in existence with the approval of the highway commissioner, and for the removal of such junkyards when in the judgment of the highway commissioner the intent of this Act is not subserved and authority for the commissioner to acquire by gift, purchase, exchange or condemnation, lands used for junkyards, and declaring an emergency.

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

§ 1.) The legislature of the state of North Dakota hereby finds and declares that the establishment and use and maintenance of junkyards in areas adjacent to the North Dakota state highway system should be controlled in order to protect the public health, welfare, morals, to conserve the public investment in such highways, to promote the safety and recreational value of public highways, and to preserve natural beauty.

§ 2. **Definitions.)**

1. "Junk"—the term junk shall mean old or scrap paper, copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste, or junked, dismantled, or wrecked automobiles, or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material.
2. "Automobile graveyard"—the term automobile graveyard shall mean any establishment or place of business or location which is maintained, used, or operated for storing, keeping, buying, or selling wrecked, scrapped, abandoned, ruined or dismantled motor vehicles, motor vehicle parts or machinery of all types.
3. "Junkyard"—the term junkyard shall mean a business establishment or a place which is maintained, operated, or used for placing, storing, keeping, buying, or selling junk, or for the maintenance, use or operation of an automobile graveyard, and the term shall include garbage dumps and sanitary fills.

4. "Commissioner"—the term commissioner shall include the North Dakota state highway commissioner or his authorized agents.
5. "Highway"—the term highway shall mean any highway as defined in section 24-01-01.2(42).

§ 3.) No junkyards, auto graveyards or scrap metal processing facilities may be established and maintained within one thousand feet of the nearest edge of the right-of-way of a highway on the state highway system unless permission has been granted by the commissioner. Junkyards established in violation of this Act are hereby declared to be a public nuisance and the commissioner may enter upon private property for the purpose of abating such nuisances without liability for such action.

§ 4.) Junkyards lawfully in existence prior to December 3, 1965, which are or may be screened by natural objects, plantings, fences, or other appropriate means so as not to be visible from the main traveled way of the state highway system shall be allowed to remain within one thousand feet of the nearest edge of the right-of-way of any state highway; provided, however, that the owners of the junkyards which are not effectively screened shall take all the steps ordered by the highway commissioner to effectively screen them. When ordered by the commissioner to screen junkyards lawfully in existence prior to December 3, 1965, the owners shall be fully reimbursed for the costs expended pursuant to the commissioner's order and design. Should the commissioner determine that the effective screening of any junkyard could best be done by state forces or by an independent contractor, he may use state forces or may let a contract for the screening in the same manner that contracts are let pursuant to this title for construction and reconstruction of the state highway system and the commissioner shall have the right to enter upon private property for the purpose of screening said junkyards without liability on his part.

§ 5.) The commissioner may order the removal of any junkyards which cannot be effectively screened within the meaning of this chapter or any junkyard which in the judgment of the commissioner does not subserve the legislative intent as specified in section 1 of this Act.

§ 6.) Any junkyard which is within one thousand feet of the nearest edge of the right-of-way and visible from any highway of the state highway system which was lawfully in existence on December 3, 1965, may be maintained in existence until December 3, 1970, unless required to be removed prior thereto by order of the commissioner.

§ 7.) Owners of junkyards lawfully in existence on December 3, 1965, which are required to be removed prior to December 3, 1970, by order of the commissioner pursuant to this chapter, shall be paid just compensation for the reasonable damages, if any, suffered by reason of such removal between the date of removal and December 3, 1970. Just compensation shall not include any relocation or removal costs as specified in section 32-15-22.1 of the North Dakota Century Code; however, costs of removal may be determined to be an element of compensation within the meaning of this Act.

§ 8.) The commissioner may, if he deems it necessary to carry out the intent of this Act, acquire lands used as junkyards by gift, purchase, exchange or condemnation in fee simple, or such lesser interest as he shall deem necessary, and in the acquisition of said lands by condemnation the commissioner shall use the procedure used for acquiring right-of-way for the improvement, construction, reconstruction, widening, altering, changing, locating, relocating, aligning, realigning or maintaining a state highway.

§ 9.) The commissioner may promulgate and enforce regulations for the maintenance of and establishment of junkyards consistent with the national policy set forth in section 136 of title 23, United States Code, and the national standards promulgated thereunder by the secretary of transportation.

§ 10.) The administrative order promulgated on December 3, 1965, by the commissioner prohibiting the establishment of junkyards within one thousand feet from the nearest edge of the right-of-way along highways on the state highway system unless his permission is obtained is hereby enacted into law with full force and effect of law, from its issuance on December 3, 1965, the same as if said order was enacted into law by the legislature to take effect as of that date.

§ 11.) Notwithstanding any other provision of this Act, junkyards, auto graveyards and scrap metal processing facilities may be operated within areas adjacent to highways which are within one thousand feet of the nearest edge of the right-of-way and which are zoned under the authority of state law or which are not zoned under the authority of state law, but are used for industrial activities as determined by the commissioner.

§ 12.) Any person who shall permit a junkyard, as defined in this Act, to be established on his property in violation of this Act shall be guilty of a misdemeanor.

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

Approved March 14, 1967.

MENTALLY ILL AND DEFICIENT, TUBERCULAR, BLIND, AND DEAF

CHAPTER 213

S. B. No. 113
(Longmire, Stafne)

EMERGENCY HOSPITALIZATION OF MENTALLY ILL

AN ACT

To amend and reenact section 25-03-08 of the North Dakota Century Code, relating to emergency procedure for admission of mentally ill to a private hospital or to the state hospital.

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

§ 1. **Amendment.)** Section 25-03-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-03-08. Hospitalization — Emergency Procedure.) Any health or police officer or licensed physician who has reason to believe that an individual is mentally ill and because of his illness is likely to injure himself or others if allowed to remain at liberty pending examination may take the individual into custody, and in such case shall forthwith obtain the written or verbal consent of the county judge, or in his absence any member of the county mental health board, to apply to a hospital for his emergency admission and transport him thereto. If neither the county judge or a member of the county mental health board is available to give consent a licensed physician who has reason to believe that an individual is mentally ill and because of his illness is likely to injure himself or others if allowed to remain at liberty pending examination may by written order direct an emergency admission to the state hospital or to a private hospital. The application for admission and licensed physician's order directing emergency admission to the state hospital or to a private hospital shall state the circumstances under which the individual was taken into custody and the reason for the officer's or physician's belief. The head of the private hospital or the superintendent of the state hospital as the case may be shall require an immediate examination of such person be made, and if he determines that hospitalization is not warranted, he shall immediately discharge such patient.

Approved February 22, 1967.

CHAPTER 214

H. B. No. 534

(Aamoth, Haugland, Wagner, Wilkie, Williamson)
(From LRC Study)CARE, CUSTODY, AND TREATMENT OF MENTALLY
DEFICIENT

AN ACT

To create and enact sections 25-04-05.1 and 25-04-13 of the North Dakota Century Code, providing for the transfer, visiting, release, placement, and guardianship of mentally deficient persons, and to amend and reenact subsection 3 of section 12-02-01, section 14-03-07, subsection 3 of section 14-03-17, section 15-34-02, subsections 4, 5, and 6 of section 15-34-03, section 15-34-07, subdivision b of subsection 1 of section 15-39-01, subdivision i of subsection 2 of section 15-39-01, sections 15-47-13, 15-47-26, subsections 2, 3, and 5 of section 25-01-01, sections 25-04-01, 25-04-02, 25-04-04, 25-04-05, 25-04-06, 25-04-07, 25-04-08, 25-04-08.1, 25-04-11, subsection 4 of section 27-16-08, sections 29-20-01, 29-20-02, subsection 4 of section 54-01-19, and subsection 14 of section 54-21-13 of the North Dakota Century Code, relating to terminology of laws pertaining to the mentally deficient, admission of mentally deficient persons to a state institution, cost agreements, custody of minors who are mentally deficient, mentally deficient defendants, discharge of mentally deficient persons, nonresident mentally deficient persons, and examination of defendants appearing to be mentally deficient.

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

§ 1. **Amendment.)** Subsection 3 of section 12-02-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. Mental deficient, incapable of knowing the wrongfulness of the act charged against them;

§ 2. **Amendment.)** Section 14-03-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

14-03-07. Marriages Prohibited.) Marriage by a woman under the age of forty-five years or by a man of any age, unless he marries a woman over the age of forty-five years, is prohibited if such a man or woman is a chronic alcoholic, an habitual criminal, a mentally deficient person, an insane person, a person who has been afflicted with hereditary insanity, or with any contagious venereal disease.

§ 3. **Amendment.)** Subsection 3 of section 14-03-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. An affidavit of a duly licensed physician other than the person seeking the license, showing that neither of the contracting parties is mentally deficient, an insane person, a common drunkard, or a person afflicted with any contagious venereal disease. For making the examination of either of the contracting parties and the affidavit, the physician may charge a fee of not more than two dollars; and

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

15-34-02. Compulsory Attendance—Deaf, Mute, Blind, or Mentally Deficient Persons.) Every parent, guardian, or other person who has control over any deaf, mute, blind, or mentally deficient child of an age of seven years to twenty years, both inclusive, shall send the child, if deaf or mute, to the school for the deaf at Devils Lake or other adequate institution for the entire school year, unless excused by the superintendent of that institution; and if blind, to the school for the blind at Grand Forks or other adequate institution for the entire school year, unless excused by the superintendent of said institution; and if mentally deficient, to the state school at Grafton or other adequate institution. Adequate institution shall mean any school, public or private, specializing in the training of handicapped children as stated.

§ 5. **Amendment.)** Subsections 4, 5, and 6 of section 15-34-03 of the 1965 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

4. That the child is in such physical or mental condition as to render attendance or participation in the regular or special education program inexpedient or impracticable. Such condition shall be shown by a declaration of a licensed physician if required by the board;
5. That no school is taught for the required length of time within two miles of the residence of the child by the nearest route, if the child lives in a school district which does not pay transportation in accordance with the schedule contained in this chapter, or the equivalent thereof in lodging or in tuition at some other school if acceptable to the child's parents or guardians, nor furnish vehicular transportation by public conveyance for the child. The exception contained in this subsection shall not apply in the case of a deaf, blind, or mentally deficient child;
6. That no school is taught for the required length of time within six miles of the residence of the child by the

nearest route, if the child lives in a school district which does not furnish vehicular transportation by public conveyance for children living more than six miles from the nearest school. The exception contained in this subsection shall not apply in the case of a deaf, blind, or mentally deficient child.

§ 6. Amendment.) Section 15-34-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-34-07. Preparation for Religious Duties—Absence from Public Schools—Deaf, Blind, Mentally Deficient May Not Be Paid Transportation.) Parents, guardians, or other persons having control of a child of compulsory school age may have such child excused from school attendance for the purpose of sending him to any parochial school to prepare such child for religious duties, for a total period of not exceeding six months in the aggregate, and such period may extend over one or more years. No transportation shall be furnished and no payments shall be made under the provisions of this chapter for any child who is attending a parochial school under the provisions of this section nor for any deaf, blind, or mentally deficient child who is not attending the public schools of the district lawfully.

§ 7. Amendment.) Subdivision b of subsection 1 of section 15-39-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- b. All superintendents and assistant superintendents employed in any state institution or in the school system of any school district in this state except that in the case of the Grafton state school, the superintendent or assistant superintendent may, at his option, be defined as a teacher for the purposes of this chapter;

§ 8. Amendment.) Subdivision i of subsection 2 of section 15-39-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- i. The Grafton state school; and

§ 9. Amendment.) Section 15-47-13 of the 1965 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, blind, and mentally deficient persons between the ages of five years and twenty-five years residing in the district, including all such persons who are too deaf or mentally deficient 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 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 mentally deficient persons to the superintendent of the Grafton state school.

§ 10. Amendment.) Section 15-47-26 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-47-26. Definitions.) The term "teacher" as used in sections 15-47-27 and 15-47-28, shall be construed to include all teachers, principals, and superintendents in all public school districts within this state, and all persons employed in teaching in any state institution. The term "state institution" as used in section 15-47-27 shall include the state university of North Dakota, state agricultural college, county agricultural and training schools, state normal schools, state teachers colleges, state school of forestry, state school of science, North Dakota school for the deaf, state school at Grafton, and state industrial school.

§ 11. Amendment.) Subsections 2, 3, and 5 of section 25-01-01 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. "Mentally deficient person" means any person, minor or adult other than a mentally ill person, who is so mentally defective as to be incapable of managing himself and his

affairs and to require supervision, control, and care for his own or the public welfare;

3. "Defective delinquent" shall mean an incompetent mentally deficient person over eighteen years of age who has been found, in accordance with the procedures established in chapter 25-04, to have demonstrated a pattern of aggravated antisocial behavior such as to present a probable peril to the life, person, or property of others, or who has given substantial evidence of continuing propensity for such behavior;
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 mentally deficient;

§ 12. **Amendment.)** Section 25-04-01 of the 1965 Supplement to 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 mentally deficient 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.

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

25-04-02. Purpose of State School.) The state school shall be maintained for the relief, instruction, care, and custody of the mentally deficient of this state. For this purpose the board may introduce and establish such trades and manual industries as in its judgment will best prepare the residents for future self-support.

§ 14. **Amendment.)** Section 25-04-04 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-04-04. Who May Receive Benefits of State School.) Subject to the provisions of chapter 25-09 and to such rules and regulations as may be made by the board, the benefits of the state school may be received by persons who are residents of this state and who are:

1. Mentally deficient and, in the opinion of the superintendent of the state school, are of suitable age and capacity to receive instruction in such school and whose deficiencies prevent them from receiving proper training and instruction in the public schools; or
2. Mentally deficient, and who cannot be properly cared for in their homes or other available facilities.

§ 15. Amendment.) Section 25-04-05 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-04-05. Qualifications for Admission to State Facility—Temporary Admission—Payment Agreement.) 1. The superintendent may admit a mentally deficient person who is a resident of this state to the state school or other state facility under his jurisdiction or the jurisdiction of the board of administration when all of the following conditions have been met:

- a. Application for admission has been made on behalf of the mentally deficient person by his parent or guardian or the person or agency having legal custody of him, or by the mentally deficient person himself, in accordance with procedures established by the board of administration;
- b. A comprehensive evaluation of the person has been made within three months of the date of application, a report of which has been filed with the superintendent and which, together with such other information or reviews as the board of administration may require, indicates to his satisfaction that the person is eligible for admission to the state school or other state facility; and
- c. The person may be admitted without exceeding the resident capacity of the facility as specified in the professional standards adopted by the board of administration.

2. The superintendent may admit to the state school or any other state facility under his jurisdiction or the jurisdiction of the board of administration, temporarily for the purposes of observation, without commitment, under such rules and regulations as the board of administration may prescribe, any person who is suspected of being mentally deficient, to ascertain whether or not such person is actually mentally deficient and a proper case for care, treatment, and training in the state facility. If in the opinion of the superintendent the person temporarily admitted to the state school is a proper subject for institutional care, treatment, and training at such school or facility, such person may remain as a voluntary resident at such school at the discretion of the superintendent if all other conditions for admission required by this section are met.

3. Prior to admitting any person as a voluntary resident under the provisions of this section, the superintendent shall require that such person, his parents, legal guardian, or other guarantor agrees to pay all expenses incurred by such care and treatment at the Grafton state school or other state facility in

the manner and amount provided by law, and may require a guarantee for such payment. However, upon receiving a certificate from the county judge that the persons legally responsible for the support of such person are unable to pay the cost of care and treatment as provided in chapter 25-09, the superintendent shall admit, in the same manner as other voluntary residents, such person as a voluntary resident.

§ 16.) Section 25-04-05.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

25-04-05.1. Transfer of Residents — Visiting Privileges — Release and Placement of Patients.) 1. The superintendent shall have the right of temporary transfer of any resident of the state school at Grafton to an appropriate hospital or other specialized facility when in his opinion the immediate health and safety of the resident requires such transfer. The superintendent shall also have the right and responsibility of indefinite transfer of a resident from one state facility for the mentally deficient to another when the best interest of the resident will be served thereby, or when such transfer is required in conformity with the policies of the board of administration; provided, however, that no such transfer shall be effected until after all reasonable efforts have been made to consult with the resident's parent or guardian of the person.

2. Subject to reasonable rules for the orderly operation of the state school or other state facility for the mentally deficient, any parent or guardian of the person of a resident shall have the right of visiting and communicating with his child or ward and authorizing visits and communications with others.

3. The superintendent may authorize the temporary release of any resident to the custody of his parent or guardian of the person, or to another person designated by the parent or such guardian. In the absence of such authorization any parent or guardian of the person of any resident may formally request his temporary release in writing, which release shall be granted at the earliest reasonable opportunity, but not more than thirty days after receipt of a written application. If such release is, or would be, effected contrary to the advice of the superintendent based on a recent comprehensive evaluation of the individual, the superintendent shall so advise the parent or such guardian in writing. If in the opinion of the superintendent the health, safety, welfare, or morals of the resident or society are seriously endangered by release, he shall so advise the board of administration, which may thereupon at their discretion apply to the proper county court to have such adult resident adjudged a defective delinquent in the manner

provided in section 25-04-07, or in the case of a minor, the board of administration may apply to the proper juvenile court to have such minor declared a ward of the court.

4. The superintendent shall have the authority to arrange for the suitable placement of a resident outside the school or other state facility and to release him on placement, provided placement has been preceded by a comprehensive evaluation. No such placement shall be effected until all reasonable efforts have been made to consult with the resident's parent or guardian of the person.

§ 17. **Amendment.)** Section 25-04-06 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-04-06. Juvenile Court Commitment of Dependent, Neglected, or Delinquent Mentally Deficient — Commitment for Observation—Appeal.) Whenever it shall appear to the satisfaction of the court in any proceeding instituted in juvenile court that the child involved in the proceeding is:

1. Dependent and mentally deficient, or
2. Neglected and mentally deficient, or
3. Delinquent and mentally deficient,

the court may make an order committing such child to the state school. If the court shall be in doubt as to whether the child is mentally deficient, it may make an order committing the child to the state school for observation only by the authorities of such institution. If it is ascertained as a result of such observation that the child is mentally deficient, a report to such effect shall be made by the authorities of the school to the court. The court thereupon shall make an order fixing a time for a hearing upon the report showing the child to be mentally deficient. Notice of such hearing shall be given to the parents, custodian, or guardian of such child in the manner prescribed by law for the giving of notice in other proceedings in juvenile court. Upon such hearing, the court shall make such order as it may deem proper. Any parent, custodian, guardian, or other person charged with the control of such child may take an appeal from the order made by the court in the manner now prescribed by law for the taking of appeals from decisions of the juvenile court. The procedure provided in this section shall not be exclusive but shall be in addition to other procedures provided in this chapter for the commitment of mentally deficient children to the state school.

§ 18. **Amendment.)** Section 25-04-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-04-07. Mentally Deficient Defendants.) 1. When in any cause, other than a proceeding before the juvenile court, it appears that a defendant may be mentally deficient to such an extent that he is unable to confer effectively with counsel or to participate adequately in his own defense, this issue shall be adjudicated in accordance with the procedures provided for in chapter 29-20. When any person has been adjudicated unfit to stand trial by reason of mental deficiency, the court shall initiate a process for the determination of mental incompetency, or for a joint determination of incompetency and defective delinquency as provided hereinafter. If incompetency is established, the court shall appoint an appropriate guardian of the person.

2. If the defendant's condition and behavior is such that it appears to the court that he may be not only incompetent, but may also constitute a continuing peril to the life, person, or property of others, the court may order his admission and temporary detention for a period not to exceed thirty days in a state institution or facility suitable to receive such persons. Prior to the expiration of the order a report shall be transmitted to the court in accordance with this directive, which report shall include recommendations concerning the nature and extent of the defendant's mental deficiency, the extent to which the individual is able to manage himself and his affairs with ordinary prudence, and the extent and character of any propensity toward aggravated antisocial behavior such as might substantiate a finding of defective delinquency.

3. The court may thereupon conduct a hearing on the joint question of incompetency and defective delinquency, with due notice to all interested parties in the manner provided for in chapter 30-10. The court may hear the matter or may order a jury trial. A jury trial shall be had if demanded by the defendant or someone on his behalf.

4. If the defendant is found competent, he shall be discharged. If he is found to be incompetent, but not a defective delinquent, the court shall appoint an appropriate guardian of the person. If he is found to be a defective delinquent, the court shall appoint an appropriate guardian and may, in addition, issue an order placing him in the state school at Grafton or other appropriate state facility.

5. Any parent, custodian, guardian, or other person charged with the control of such defendant may take an appeal from the order made by the court in the manner provided by law. The procedure provided in this section shall not be exclusive but shall be in addition to any other procedure for the commitment of mentally deficient persons to the state school or other state facility.

§ 19. Amendment.) Section 25-04-08 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-04-08. Discharge of Resident from Institution.) A mentally deficient person who has been admitted as a resident shall be permanently discharged within thirty days under any one of the following conditions:

1. The superintendent, on the basis of a comprehensive evaluation, finds that the care, treatment, training, rehabilitation, and supervision offered by the state are no longer required;
2. The parent or guardian who voluntarily committed his child or ward as a resident and who retains legal custody makes a written request for discharge;
3. The mentally deficient person is admitted on indefinite transfer to a hospital, school, or other facility, or a protective service under the jurisdiction of another state, or another agency or department of this state, provided, however, that if such admission be by contractual arrangement made by the board of administration, the mentally deficient person shall be placed on nonresident release status, but not discharged; and
4. A court of competent jurisdiction orders the discharge of the mentally deficient person.

Any person who is to be discharged under subsections 2 or 4 of this section shall first receive a comprehensive evaluation unless such evaluation is not completed within thirty days of the request for discharge.

§ 20. Amendment.) Section 25-04-08.1 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-04-08.1. Notification Prior to Discharge.) Prior to discharge the superintendent shall consult with the parent or guardian of the person of the mentally deficient person, or with the court which ordered the commitment, and shall notify the director of the county welfare board of the county wherein it is proposed that such person will assume residence and shall also notify the director of the state welfare board.

§ 21. Amendment.) Section 25-04-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-04-11. Disposition of Mentally Deficient Person Who Is Not a Legal Resident.) If a person who has no legal residence in this state is subject to admission to the state school or

other appropriate state facility, by order of a court of competent jurisdiction, such person shall be sent, at the expense of the county, to the state school in the same manner as a resident of this state who is found to be mentally deficient, and the superintendent of the state school shall then arrange for the transportation of such person to the place where he belongs. The board of administration shall ascertain the place where such person belongs when the same conveniently can be done.

§ 22.) Section 25-04-13 of the North Dakota Century Code is hereby created and enacted to read as follows:

25-04-13. Guardianship of Person and Estate—Superintendent and Board of Administration to Act as Guardians in Lieu of Court Appointment or Assumption by Parent.) The superintendent of the Grafton state school shall be the guardian of the person of any resident of the Grafton state school who does not otherwise have a guardian of his person duly appointed by a court of competent jurisdiction, or whose parents do not elect to retain their natural guardianship of the person as herein provided. Such guardianship by the superintendent shall continue until the resident otherwise obtains a court-appointed guardian of the person, or is permanently discharged from the Grafton state school pursuant to section 19 of this Act.

The board of administration or its duly designated agent shall be the guardian of the estate of a resident of the Grafton state school who does not otherwise have a court-appointed guardian of his estate, or whose parents do not elect to retain their natural guardianship of the estate as herein provided. The guardianship of the estate of a resident of the Grafton state school shall be administered by the board of administration or its duly designated agent until the resident otherwise obtains a court-appointed guardian of his estate, or is permanently discharged from the Grafton state school pursuant to section 19 of this Act. The board of administration, its agent, or any other guardian of the estate of a resident of the Grafton state school, shall make an annual accounting to the county court of the county of residence of a resident of the Grafton state school, provided, however, that the board of administration shall not be required to make such accounting if the income or expenditures of the estate do not exceed one hundred dollars during the past calendar year or if the total value of the estate does not exceed three hundred dollars. All guardians of the estate of residents of the state school, other than the board of administration, shall file a copy of their annual accounting with the board of administration.

Upon the effective date of this Act the superintendent of the Grafton state school and the board of administration shall notify by certified mail the parents or responsible relatives of all residents of the Grafton state school under the age of twenty-one that the superintendent shall assume the guardianship of the persons of such residents and that the board of administration shall assume the guardianship of the estates of such residents, unless the parents shall elect in writing to retain their natural guardianship until the age of twenty-one of either the person, estate, or both of such residents within ninety days of receipt of such notice. Notification by certified mail shall also be given to the parents or responsible relatives of all other residents of the Grafton state school that the superintendent will assume guardianship of the persons, and the board of administration shall assume guardianship of the estates of such residents within ninety days of receipt of such notice unless such parents or responsible relatives shall be appointed by a court of competent jurisdiction as guardians of either the persons, estates, or both of such residents. The superintendent and the board of administration shall include in such notices a full explanation of the legal effects of the assumption of such guardianship. After the effective date of this Act the parents or responsible relatives of any person admitted to the Grafton state school shall be notified in person or by certified mail that the superintendent shall assume the guardianship of the person and the board of administration shall assume the guardianship of the estate of the new resident within ninety days of admission, unless the parent or responsible relatives shall elect in writing to retain their natural guardianship of either the person, estate, or both of the new resident, or shall elect to have a court of competent jurisdiction appoint such parents or responsible relatives as guardians of the person, estate, or both. A full explanation of the legal effects of such guardianships shall be given at the same time as the notification.

Each county court shall maintain a file for the filing of the guardianship accounting of the estates of residents of the Grafton state school, and shall audit such accounts in the same manner as other accounts are audited. The state's attorney of each county shall advise the county court as to the proper methods and procedures of administering such guardianship accounts, upon request of the judge of the county court.

Nothing in this section shall preclude the appointment of a parent of a resident as a guardian of the person or estate. In the event any legal guardian shall fail or neglect to properly perform his duties as a guardian, the superintendent or board of administration may apply to a court of competent jurisdiction to have such guardianship terminated.

The assumption of the guardianship of the person by the superintendent, or of the estate by the board of administration, of a resident of the Grafton state school shall in no way affect any parental financial responsibility of the parent for such resident as may otherwise be provided by law. The superintendent in his capacity as guardian of the person of a resident of the Grafton state school shall not consent to any sterilization operation of such resident except as may otherwise be provided for by law.

§ 23. Amendment.) Subsection 4 of section 27-16-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. Concurrent jurisdiction for the care or commitment to the state school at Grafton or other public facility for the mentally deficient or mentally disordered child as provided by section 25-04-06.

§ 24. Amendment.) Section 29-20-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

29-20-01. Examination of Defendant's Mental Condition to Determine Whether He Shall Be Tried.) If, before or during the trial, the court has reasonable ground to believe that the defendant against whom an indictment has been found or an information filed is insane or mentally defective to the extent that he is unable to understand the proceedings against him or to assist in his defense, the court immediately shall fix a time for a hearing to determine the defendant's mental condition. The court may appoint two disinterested qualified experts to examine the defendant with regard to his present mental condition and to testify at the hearing, or it may commit the defendant to the state hospital at Jamestown or the state school at Grafton for observation and examination regarding his present mental condition. The proper officer of such institution shall present to the court which conducted the hearing a report regarding the defendant's present mental condition. He also may be summoned to testify at the hearing. Other evidence regarding the defendant's mental condition may be introduced at the hearing by either party.

§ 25. Amendment.) Section 29-20-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

29-20-02. Commitment to State Hospital or Grafton State School—Rehearing—Trial or Commitment.) If the court, after the hearing, decides that the defendant is able to understand the proceedings and to assist in his defense, it shall proceed

with the trial, but if it decides that the defendant, because of insanity or mental deficiency, is not able to understand the proceedings or to assist in his defense, it shall take proper steps to have the defendant committed to the state hospital at Jamestown or the state school at Grafton, whichever institution seems most appropriate. If, thereafter the proper officer of such institution is of the opinion that the defendant is able to understand the proceedings and to assist in his defense, he shall report this fact to the court which committed the defendant. If the officer so reports, the court shall fix a time for a hearing to determine whether the defendant is able to understand the proceedings and to assist in his defense. This hearing shall be conducted in all respects like the original hearing to determine the defendant's mental condition. If, after this hearing, the court decides that the defendant is able to understand the proceedings against him and to assist in his defense, it shall proceed with the trial. If, however, it decides that the defendant still is not able to understand the proceedings against him or to assist in his defense, it shall recommit him to the state hospital at Jamestown or state school at Grafton, whichever the case may be.

§ 26. Amendment.) Subsection 4 of section 54-01-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. To establish custody and restraint for the persons of unsound mind dangerous to themselves or society;

§ 27. Amendment.) Subsection 14 of section 54-21-13 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

14. To receive and provide for such mentally deficient persons as may be committed to its guardianship by courts of competent jurisdiction;

Approved February 23, 1967.

CHAPTER 215

H. B. No. 538
(Aamoth, Wagner, Wilkie)
(From LRC Study)

RECOMMENDATION FOR STERILIZATION

AN ACT

Authorizing the superintendent of the Grafton state school to recommend a sterilization operation for a resident of such school upon receiving the approval of a board of professional personnel and the written consent of a relative or guardian, specifying the manner of obtaining and granting consent, prohibiting the superintendent from acting as guardian, providing for compensation of physicians and surgeons and limiting liability, and providing that parents may initiate such procedure.

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

§ 1. Superintendent May Recommend Sterilization — Persons Who May Give Consent to Operation.) The superintendent of the Grafton state school, upon obtaining the unanimous approval of a board composed of three competent physicians and surgeons, one professional psychologist, and one professional social worker appointed by the board of administration, may recommend in writing to the:

1. Court-appointed guardian, or if there is no court-appointed guardian, to the
2. Parent, if the person subject to sterilization is a minor, or if not a minor or no guardian has been appointed for the person, to the
3. Spouse, if there be one,

of a resident of the Grafton state school, that such resident be sterilized. No recommendation for sterilization shall be made unless such operation would be for the protection of society or improving the physical and mental well-being of the resident.

At the same time as submitting the written recommendation for sterilization, the superintendent shall submit an explanation sheet to the guardian, parent, or spouse, explaining in simplified terms the nature and procedure of a sterilization operation, its purpose, and the effect such operation might have on the individual.

For the purpose of this section a professional psychologist shall be deemed to be a person holding a doctor's degree in psychology, and a professional social worker shall be deemed to be a person holding a master's degree in social work.

§ 2. Consent Required for Sterilization—Manner of Obtaining.) Within fourteen days after the notification of the recommendation for sterilization is received, the court-appointed guardian, parent, or spouse, whichever the case may be, shall express consent or non-consent to the sterilization operation on a form provided by the board of administration for such purpose. No sterilization operation shall be performed without the written consent of the court-appointed guardian, parent, or spouse, whichever the case may be. If written notice of non-consent is not received within fourteen days after notification of the recommendation for sterilization, the consent to proceed with the sterilization operation shall be deemed to have been denied. No further request for consent to sterilize shall be made for at least one year from the date of denial.

§ 3. Basis for Determining Approval by Physicians.) The five-member board's approval for the sterilization operation shall be based upon an examination of the innate traits, mental and physical condition, personal record, family traits and history, and adequate medical and psychiatric evaluation of the person who is subject to being sterilized. The examination of the person shall be made at the request of the superintendent of the Grafton state school.

§ 4. Appointment of Guardian Where No Relative Evident—Superintendent Not to Act.) The superintendent of the Grafton state school shall not request approval for sterilization from the five-member board for any person who does not have any parent or spouse, unless a guardian is first appointed by a court of competent jurisdiction in the manner provided by law for the appointment of guardians. The superintendent shall not be appointed as the guardian for any person for whom a sterilization operation is requested, nor shall the superintendent, if previously appointed the guardian of a person by statute or by a court of competent jurisdiction, exercise any guardianship powers for the purpose of consenting to a sterilization operation.

§ 5. Members Composing Approval Board—Compensation.) The members composing the approval board shall be entitled to a per diem compensation of twenty-five dollars for each day in which actually engaged in the performance of their duties and to the same mileage and expenses allowed to other employees of the state. Such per diem and expenses shall be paid from moneys appropriated to the Grafton state school.

§ 6. Performance of Operation.) Upon receipt of the written consent from the guardian, parent, or spouse, to proceed with the sterilization operation, the superintendent of the Grafton state school shall cause to be performed such surgical

operation for sterilization of the person named in the written consent as may be specified therein. All such operations shall be performed within a reasonable time after receiving consent and with due regard for the physical condition of the resident and in accordance with accepted and recognized standards of medical practice.

§ 7. No Liability Except for Negligence.) The superintendent of the Grafton state school, the members of the approval board, the relative or guardian granting the consent for the sterilization operation, the physician and surgeon performing the operation, the members of the board of administration, or any other person who in good faith aids in carrying out the provisions of this Act, shall not be held criminally liable therefor, nor civilly liable for any loss or damage on account thereof, except in the case of negligence in the performance of such operation.

§ 8. Parents May Initiate Sterilization Procedure.) Any parent desiring to have his or her minor child who has been committed or admitted to the Grafton state school sterilized, shall notify the superintendent in writing. The superintendent upon receiving such notification shall inform the parent of the next scheduled meeting of the approval board provided for in section 1 of this Act, or if no meeting is scheduled, shall notify the parent as soon as a meeting is scheduled. At such meeting of the approval board, the parent seeking a sterilization operation for his child, shall appear and present evidence as to why such minor child shall be sterilized and shall submit a written form consenting to such sterilization. The board, upon completing a review of all evidence presented by the parent and considering all the requirements as provided in sections 1 and 3 of this Act, may approve or reject the application. If the application is approved, the sterilization operation shall be performed in the manner provided for in this Act.

Approved February 24, 1967.

CHAPTER 216

H. B. No. 537
(Aamoth, Haugland, Wagner, Wilkie)
(From LRC Study)

TREATMENT COSTS FOR RESIDENTS OF GRAFTON
STATE SCHOOL

AN ACT

To amend and reenact sections 25-09-04, 25-09-05, 25-09-06, 25-09-07, 25-09-08, and 25-09-11 of the North Dakota Century Code, relating to charges for the care and treatment of residents of the Grafton state school, methods of determining actual liability, and disposition of revenue, and to repeal section 25-09-06.1, relating to limitations on certain claims.

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

§ 1. **Amendment.)** Section 25-09-04 of the 1965 Supplement to 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 supervising department quarterly, the actual cost of care and treatment incurred by the state at each institution, or such lesser amount as may be determined in accordance with sections 25-09-05, 25-09-06, or 25-09-11. For purposes of this chapter and title 25 of this Code "responsible relatives" shall mean the patient's spouse, father, mother or children.

§ 2. **Amendment.)** Section 25-09-05 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-09-05. Inability to Pay All or Part of Expense.) The patient, his responsible relatives, or the executor, administrator, or guardian may make application to the supervising department 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' of their estates' inability to pay. Upon receipt of such application the supervising department shall direct the county welfare 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 supervising department shall approve, reject, or amend the determination made by the county welfare board. The determination made by the supervising department 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. Any patient or responsible relative, who seeks relief for the payment of cost of care and treatment by filing an application for relief of payment, shall do so with the understanding that the supervising department may, in its discretion, and to its satisfaction, verify any statement made in such application for relief of payment. Notwithstanding the provisions of section 57-38-57, this verification may include a review of such applicant's state income tax return or any other document or report submitted to or held by any office or department of the state of North Dakota or any of its political subdivisions.

§ 3. Amendment.) Section 25-09-06 of the 1965 Supplement to 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 supervising department not more often than once each calendar year for a review of the determination made by the supervising department 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 supervising department may reaffirm or alter the previous determination and shall have authority to make such redetermination retroactive. In addition the supervising department 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, which determination may be made retroactive.

§ 4. Amendment.) Section 25-09-07 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

***25-09-07. State's Attorneys or Attorney General to Bring Action for Expenses—Contract for Collections.)** 1. Upon the request of the supervising department to the various state's attorneys or attorney general, in regard to expenses incurred

***Note:** Section 1 of chapter 217, 1967 S.L., also amended section 25-09-07.

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 or attorney general 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.

2. The supervising department of the state hospital is permitted to contract with North Dakota nonprofit hospital collection associations or collection agencies located in the state for the collection of amounts due the state for expenses incurred by the state of North Dakota for the care and treatment of patients at the state hospital where the amount due the state by a patient or his estate, or his responsible relatives or their estates is not in excess of three hundred fifty dollars at the time the account is turned over to the collection agency for collection.

§ 5. **Amendment.)** Section 25-09-08 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-09-08. Disposition of Funds Collected.) The amount collected from patients, their estates, or responsible relatives or their estates, by the supervising department under the provisions of this chapter shall be deposited with the state treasurer and credited to the operating fund of each institution.

§ 6. **Amendment.)** Section 25-09-11 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-09-11. Reductions in Claims Against Resident Patients of the Grafton State School and Their Responsible Relatives—Voluntary Payments—Termination of Billings.) 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 supervising department 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 supervising department 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 resident patient at the state school under section 25-09-02 or to resident responsible relatives of such patient under sections 25-09-04 and 25-09-06. The 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 six hundred dollars. 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 resident responsible relatives shall be terminated and no billings shall be made against said resident responsible relatives except for any previous liabilities incurred, provided, however, such relatives may voluntarily choose to pay the actual average per-patient costs of care and treatment of the patient or patients, or any portion thereof, for the patient or patients for whom they are responsible. If the resident responsible relative does not choose to pay the actual average per-patient costs of care and treatment after the fifteen-year period of residency at the school is passed, or the patient reaches his twenty-first birthday, whichever occurs first, the actual costs of care and treatment shall accrue against the estate of the responsible relatives from the date the patient reaches the fifteen-year period or his twenty-first birthday, whichever occurs first. No monthly or other billing to the patient, the responsible relative, or the guardian of the patient's person or estate shall be necessary to perfect and maintain the claims of the state against the patient or estate of the responsible relative.

Claims against the estates of resident 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 resident responsible relatives, or their estates, shall be retroactive to the 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 or the doctrine of laches 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 or for the liability incurred by 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. No claim shall be made to recover from the estate of a former resident of the state school who has left the state school and married, and leaves a spouse or issue dependent upon such estate.

Nonresident patients at the Grafton state school and non-resident responsible relatives of such patients shall be liable for the full costs of care and treatment at the state school according to the provisions of sections 25-09-02 through 25-09-06.

§ 7. Repeal.) Section 25-09-06.1 of the 1965 Supplement to the North Dakota Century Code is hereby repealed.

Approved March 15, 1967.

CHAPTER 217

S. B. No. 74

(Kautzmann, Longmire, Stafne)

COLLECTION OF EXPENSES FOR CARE AT GRAFTON STATE SCHOOL AND STATE HOSPITAL

AN ACT

To amend and reenact section 25-09-07 of the 1965 Supplement to the North Dakota Century Code, relating to the collection of expenses of care and treatment of patients at the state hospital and state school.

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

§ 1. Amendment.) Section 25-09-07 of the 1965 Supplement to 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—Contract for Collections.)** 1. Upon the request of the supervising department 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

***Note:** Section 4 of chapter 216, 1967 S.L., also amended section 25-09-07.

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.

2. The supervising department of the state hospital is permitted to contract with North Dakota non-profit hospital collection associations or collection agencies located in the state for the collection of amounts due the state for expenses incurred by the state of North Dakota for the care and treatment of patients at the state hospital where the amount due the state by a patient or his estate, or his responsible relatives or their estates is not in excess of three hundred fifty dollars at the time the account is turned over to the collection agency for collection.

Approved February 27, 1967.

CHAPTER 218

S. B. No. 51

(Longmire, Ruemmele)

(From LRC Study)

BILLING OF PATIENTS FOR CARE IN STATE INSTITUTIONS AND DISPOSITION OF NONRESIDENTS AT GRAFTON

AN ACT

To amend and reenact sections 25-09-09 and 25-09-10 of the North Dakota Century Code, relating to the manner of billing patients of state institutions and their responsible relatives, and the disposition of nonresident patients at the Grafton state school.

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

§ 1. Amendment.) Section 25-09-09 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-09-09. Statute of Limitations Not Bar to Recovery.) No statute of limitations or similar statute or the doctrine of laches 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. It shall not be necessary to bill currently any person for those accounts determined to be inactive, or currently uncollectible, or which it has been determined as provided by law that there is no present ability to pay. Current billings shall be made for amounts chargeable by law or for which it has been

determined the patient or responsible relative presently has an ability to pay, but such manner of billing shall in no way affect the total amount due.

§ 2. Amendment.) Section 25-09-10 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-09-10. Disposition of Nonresidents—Exceptions—Reciprocal Agreements.) 1. If a person who has no legal residence in this state or whose residence is unknown is found to be fit subject for care and treatment in the state hospital or tuberculosis sanatorium, such person shall be sent to such institution in the same manner, and accompanied by the same documents as in the case of a resident of this state. The supervising department shall immediately inquire as to the residence of such person, and if found to be in another state or country the supervising department may arrange for transportation of such person to the place where he belongs. The supervising department may enter into reciprocal agreements with other states regarding the mutual exchange, return, and transportation of mentally ill or tubercular persons who are within the confines of one state but have legal residence or legal settlement in another state. Such agreements shall contain no provision conflicting with any laws of this state.

2. If a person who has no legal residence in this state or whose residence is unknown is found to be fit subject for care and treatment in the state school, such person shall be sent to such institution in the same manner, and accompanied by the same documents, as in the case of a resident of this state. The supervising department shall immediately inquire as to the residence of such person or his responsible relatives, and if found to be in another state or country the supervising department shall arrange for transportation of such person to the place where he belongs unless such person can be accommodated at the Grafton state school without depriving a North Dakota resident of care and treatment at the Grafton state school and costs of care are paid for by the nonresident person or his responsible relatives within a reasonable time, or unless a reciprocal agreement has been entered into with another state regarding the care and commitment of such a nonresident. The supervising department may enter into reciprocal agreements with other states regarding the mutual exchange, return, and transportation of mentally deficient persons who are within the confines of one state but have legal residence or legal settlement in another state. Such agreements shall contain no provision conflicting with any laws of this state.

Approved February 25, 1967.

CHAPTER 219

H. B. No. 691

(Williamson, McDonald(21), Eagles)

ESTABLISHMENT OF MENTAL HEALTH AND
RETARDATION SERVICE UNITS

AN ACT

To amend and reenact section 25-12-01 of the North Dakota Century Code, relating to establishment of mental health and retardation service units.

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

§ 1. Amendment.) Section 25-12-01 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-12-01. Establishment of Mental Health and Retardation Service Units.) Upon petition of eight percent of the voters of any city as determined by the number voting for the office of governor in such city at the most recent general election at which a governor was elected, the governing body of any city having a population of five thousand or more according to the last federal census may, with the approval of the board of county commissioners of the county within which such city is located, establish and maintain a mental health and retardation service unit.

Upon petition of eight percent of the voters of any county as determined by the number voting for the office of governor in such county at the most recent general election at which a governor was elected, the board of county commissioners of any county containing a city having a population of five thousand or more according to the most recent federal census may establish and maintain a mental health and retardation service unit.

In addition to the other methods provided by law, a mental health and retardation service unit may be established upon the petition of eight percent of the voters of any county as determined by the number voting for the office of governor in such county at the most recent general election at which a governor was elected, the board of county commissioners of any county not containing a city having a population of five thousand or more according to the most recent federal census, may enter into agreements for the joint operation or for the participation in the operation or contracts with other

cities or counties who have established a mental health and retardation service unit pursuant to this section. Such counties may act in accordance with the provisions of section 54-40-08 in making such agreements.

Any county or city establishing a mental health and retardation service unit may in accordance with section 54-40-08 make agreements with the governing bodies of other political subdivisions for the joint operation or participation in the operation of such service unit or contracts as provided in this chapter.

Such service unit may be established by the county or city and operated by the political subdivisions involved, or in the discretion of their respective governing bodies such service unit may be operated by contract with a nonprofit corporation which shall agree to furnish such services in the field of mental health and retardation in accordance with such contract in a manner consistent with state law and rules of the division of mental health of the state health department.

These units will take into consideration and be coordinated with existing mental health and retardation services which are under other local, state, or private administrations, such as social service programs of county welfare boards, area child welfare and family services of the public welfare board of North Dakota, special education programs, specialized services of the division of vocational rehabilitation, and other facilities providing services in the broad field of mental health.

Approved February 27, 1967.

CHAPTER 220

S. B. No. 326

(Holand)

PARTICIPATION OF BLIND PERSONS IN SOCIAL AND
ECONOMIC ACTIVITIES

AN ACT

Relating to access and use of public accommodations, common carriers, and places in which the public is generally invited, by a totally or partially blind person accompanied by such person's guide dog; public employment of handicapped, and providing a penalty.

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

§ 1. **Legislative Policy.)** It is the policy of this state to encourage and enable the blind, the visually handicapped, and the otherwise physically disabled to participate fully in the social and economic life of the state and to engage in remunerative employment.

§ 2. **Blind Person Accompanied by Guide Dog To Be Admitted to Public Places.)** Every totally or partially blind person shall have the right to be accompanied by a guide dog, especially trained for the purpose, in places of public accommodations, common carriers, and all places in which the public is generally invited, without being required to pay an extra charge for the guide dog; provided that he shall be liable for any damage done to the premises or facilities by such dog.

§ 3. **Precautions of Driver of Motor Vehicle When Approaching Blind Persons.)** The driver of a vehicle approaching a totally or partially blind pedestrian who is carrying a cane predominantly white or metallic in color, with or without a red tip, or using a guide dog shall take all reasonable precautions to avoid injury to such blind pedestrian, and any driver who fails to take such reasonable precautions shall be liable in damages for any injury caused such pedestrian; provided that a totally or partially blind pedestrian not carrying such a cane or using a guide dog in any of the places, accommodations, or conveyances listed in section 2 of this Act, shall have all of the rights and privileges conferred by law upon other persons, and the failure of a totally or partially blind pedestrian to carry such a cane or use a guide dog in any such places, accommodations, or conveyances shall not itself be held to constitute nor be evidence of contributory negligence.

§ 4. **Misdemeanor to Interfere or Deny Use of Facilities.)** Any person, firm, or corporation, or the agent of any person,

firm, or corporation who denies or interferes with admittance to or enjoyment of the public facilities enumerated in section 2 of this Act or otherwise interferes with the rights of a totally or partially blind person shall be guilty of a misdemeanor.

§ 5. State Employment of Handicapped.) It is the policy of this state that the blind, the visually handicapped, and the otherwise physically disabled shall be employed in the state service, the service of the political subdivisions of the state, in the public schools, and in all other employment supported in whole or in part by public funds on the same terms and conditions as the able-bodied, unless the particular disability prevents the performance of the work involved.

Approved March 14, 1967.

CHAPTER 221

S. B. No. 254
(Meschke, Rait)

INTERSTATE COMPACT ON MENTALLY DISORDERED OFFENDER

AN ACT

To adopt an interstate compact on the mentally disordered offender.
Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Enactment of Interstate Compact on Mentally Disordered Offenders.) The interstate compact on mentally disordered offenders, hereinafter called "the compact", is hereby enacted and entered into with all other jurisdictions legally joining therein. The provisions of said compact are as follows:

Interstate Compact on Mentally Disordered Offenders

ARTICLE I

Purpose and Policy

(a) The party states, desiring by common action to improve their programs for the care and treatment of mentally disordered offenders, declare that it is the policy of each of the party states to:

1. Strengthen their own programs and laws for the care and treatment of the mentally disordered offender.

2. Encourage and provide for such care and treatment in the most appropriate locations, giving due recognition to the need to achieve adequacy of diagnosis, care, treatment, after-

care and auxiliary services and facilities and, to every extent practicable, to do so in geographic locations convenient for providing a therapeutic environment.

3. Authorize cooperation among the party states in providing services and facilities, when it is found that cooperative programs can be more effective and efficient than programs separately pursued.

4. Place each mentally disordered offender in a legal status which will facilitate his care, treatment and rehabilitation.

5. Authorize research and training of personnel on a cooperative basis, in order to improve the quality or quantity of personnel available for the proper staffing of programs, services and facilities for mentally disordered offenders.

6. Care for and treat mentally disordered offenders under conditions which will improve the public safety.

(b) Within the policies set forth in this Article, it is the purpose of this compact to:

1. Authorize negotiation, entry into, and operations under contractual arrangements among any two or more of the party states for the establishment and maintenance of cooperative programs in any one or more of the fields for which specific provision is made in the several articles of this compact.

2. Set the limits within which such contracts may operate, so as to assure protection of the civil rights of mentally disordered offenders and protection of the rights and obligations of the public and of the party states.

3. Facilitate the proper disposition of criminal charges pending against mentally disordered offenders, so that programs for their care, treatment and rehabilitation may be carried on efficiently.

ARTICLE II

Definitions

As used in this compact:

(a) "Mentally disordered offender" means a person who has been determined, by adjudication or other method legally sufficient for the purpose in the party state where the determination is made, to be mentally ill and:

1. Is under sentence for the commission of crime; or

2. Who is confined or committed on account of the commission of an offense for which, in the absence of mental illness, said person would be subject to incarceration in a penal or correctional facility.

(b) "Patient" means a mentally disordered offender who is cared for, treated, or transferred pursuant to this compact.

(c) "Sending state" means a state party to this compact in which the mentally disordered offender was convicted; or the state in which he would be subject to trial on or conviction of an offense, except for his mental condition; or, within the meaning of Article V of this compact, the state whose authorities have filed a petition in connection with an untried indictment, information or complaint.

(d) "Receiving state" means a state party to this compact to which a mentally disordered offender is sent for care, after-care, treatment or rehabilitation, or within the meaning of Article V of this compact, the state in which a petition in connection with an untried indictment, information or complaint has been filed.

ARTICLE III

Contracts

(a) Each party state may make one or more contracts with any one or more of the other party states for the care and treatment of mentally disordered offenders on behalf of a sending state in facilities situated in receiving states, or for the participation of such mentally disordered offenders in programs of after-care on conditional release administered by the receiving state. Any such contract shall provide for:

1. Its duration.
2. Payments to be made to the receiving state by the sending state for patient care, treatment, and extraordinary services, if any.
3. Determination of responsibility for ordering or permitting the furnishing of extraordinary services, if any.
4. Participation in compensated activities, if any, available to patients; the disposition or crediting of any payment received by patients on account thereof; and the crediting of proceeds from or disposal of any products resulting therefrom.
5. Delivery and retaking of mentally disordered offenders.
6. Such other matters as may be necessary and appropriate to fix the obligations, responsibilities and rights of the sending and receiving states.

(b) Prior to the construction or completion of construction of any facility for mentally disordered offenders or addition to such facility by a party state, any other party state or states may contract therewith for the enlargement of the planned capacity of the facility or addition thereto, or for the inclusion

therein of particular equipment or structures, and for the reservation of a specific percentum of the capacity of the facility to be kept available for use by patients of the sending state or states so contracting. Any sending state so contracting may, to the extent that moneys are legally available therefor pay to the receiving state, a reasonable sum as consideration for such enlargement of capacity, or provision of equipment or structures, and reservation of capacity. Such payment may be in a lump sum or in installments as provided in the contract.

(c) A party state may contract with any one or more other party states for the training of professional or other personnel whose services, by reason of such training, would become available for or be improved in respect of ability to participate in the care and treatment of mentally disordered offenders. Such contracts may provide for such training to take place at any facility being operated or to be operated for the care and treatment of mentally disordered offenders; at any institution or facility having resources suitable for the offering of such training; or may provide for the separate establishment of training facilities, provided that no such separate establishment shall be undertaken, unless it is determined that an appropriate existing facility or institution cannot be found at which to conduct the contemplated program. Any contract entered into pursuant to this paragraph shall provide for:

1. The administration, financing, and precise nature of the program.
2. The status and employment or other rights of the trainees.
3. All other necessary matters.

(d) No contract entered into pursuant to this compact shall be inconsistent with any provision thereof.

ARTICLE IV

Procedures and Rights

(a) Whenever the duly constituted judicial or administrative authorities in a state party to this compact, and which has entered into a contract pursuant to Article III, shall decide that custody, care and treatment in, or transfer of a patient to, a facility within the territory of another party state, or conditional release for after-care in another party state is necessary in order to provide adequate care and treatment or is desirable in order to provide an appropriate program of therapy or other treatment, or is desirable for clinical reasons, said officials may direct that the custody, care and treatment be within a facility or in a program of after-care within the territory of said other party state, the receiving state to act in that regard solely as agent for the sending state.

(b) The appropriate officials of any state party to this compact shall have access, at all reasonable times to any facility in which it has a contractual right to secure care or treatment of patients for the purpose of inspection and visiting such of its patients as may be in the facility or served by it.

(c) Except as otherwise provided in Article VI, patients in a facility pursuant to the terms of this compact shall at all times be subject to the jurisdiction of the sending state and may at any time be removed for transfer to a facility within the sending state, for transfer to another facility in which the sending state may have a contractual or other right to secure care and treatment of patients, for release on after-care or other conditional status, for discharge, or for any other purpose permitted by the laws of the sending state: provided that the sending state shall continue to be obligated to such payments as may be required pursuant to the terms of any contract entered into under the terms of Article III.

(d) Each receiving state shall provide regular reports to each sending state on the patients of that sending state in facilities pursuant to this compact including a psychiatric and behavioral record of each patient and certify said record to the official designated by the sending state, in order that each patient may have the benefit of his or her record in determining and altering the disposition of said patient in accordance with the law which may obtain in the sending state and in order that the same may be a source of information for the sending state.

(e) All patients who may be in a facility or receiving after-care from a facility pursuant to the provisions of this compact shall be treated in a reasonable and humane manner and shall be cared for, treated and supervised in accordance with the standards pertaining to the program administered at the facility. The fact of presence in a receiving state shall not deprive any patient of any legal rights which said patient would have had if in custody or receiving care, treatment or supervision as appropriate in the sending state.

(f) Any hearing or hearings to which a patient present in a receiving state pursuant to this compact may be entitled by the laws of the sending state shall be had before the appropriate authorities of the sending state, or of the receiving state if authorized by the sending state. The receiving state shall provide adequate facilities for such hearings as may be conducted by the appropriate officials of a sending state. In the event such hearing or hearings are had before officials of the receiving state, the governing law shall be that of the sending state and a record of the hearing or hearings as prescribed by

the sending state shall be made. Said record together with any recommendations of the hearing officials shall be transmitted forthwith to the official or officials before whom the hearing would have been had if it had taken place in the sending state. In any and all proceedings had pursuant to the provisions of this paragraph, the officials of the receiving state shall act solely as agents of the sending state and no final determination shall be made in any matter except by the appropriate officials of the sending state. Costs of records made pursuant to this paragraph shall be borne by the sending state.

(g) Any patient confined pursuant to this compact shall be released within the territory of the sending state unless the patient, and the sending and receiving states, shall agree upon release in some other place. The sending state shall bear the cost of such return to its territory.

(h) Any patient pursuant to the terms of this compact shall be subject to civil process and shall have any and all rights to sue, be sued and participate in and derive any benefits or incur or be relieved of any obligations or have such obligations modified or his status changed on account of any action or proceeding in which he could have participated if in any appropriate facility of the sending state or being supervised therefrom, as the case may be, located within such state.

(i) The parent, guardian, trustee, or other person or persons entitled under the laws of the sending state to act for, advise, or otherwise function with respect to any patient shall not be deprived of or restricted in his exercise of any power in respect of any patient pursuant to the terms of this compact.

ARTICLE V

Disposition of Charges

(a) Whenever the authorities responsible for the care and treatment of a mentally disordered offender, whether convicted or adjudicated in the state or subject to care, after-care, treatment or rehabilitation pursuant to a contract, are of the opinion that charges based on untried indictments, informations or complaints in another party state present obstacles to the proper care and treatment of a mentally disordered offender or to the planning or execution of a suitable program for him, such authorities may petition the appropriate court in the state where the untried indictment, information or complaint is pending for prompt disposition thereof. If the mentally disordered offender is a patient in a receiving state, the appropriate authorities of the sending state, upon recommendation of the appropriate authorities in the receiving state, shall, if they concur in the recommendation, file the petition contemplated by this paragraph.

(b) The court shall hold a hearing on the petition within thirty days of the filing thereof. Such hearing shall be only to determine whether the proper safeguarding and advancement of the public interest; the condition of the mentally disordered offender, and the prospects for more satisfactory care, treatment and rehabilitation of him warrant disposition of the untried indictment, information or complaint prior to termination of the defendant's status as a mentally disordered offender in the sending state. The prosecuting officer of the jurisdiction from which the untried indictment, information or complaint is pending, the petitioning authorities, and such other persons as the court may determine shall be entitled to be heard.

(c) Upon any hearing pursuant to this Article, the court may order such adjournments or continuances as may be necessary for the examination or observation of the mentally disordered offender or for the securing of necessary evidence. In granting or denying any such adjournment or continuance, the court shall give primary consideration to the purposes of this compact, and more particularly to the need for expeditious determination of the legal and mental status of a mentally disordered offender so that his care, treatment and discharge to the community only under conditions which will be consonant with the public safety may be implemented.

(d) The presence of a mentally disordered offender within a state wherein a petition is pending or being heard pursuant to this Article, or his presence within any other state through which he is being transported in connection with such petition or hearing, shall be only for the purposes of this compact, and no court, agency or person shall have or obtain jurisdiction over such mentally disordered offender for any other purpose by reason of his presence pursuant to this Article. The mentally disordered offender shall, at all times, remain in the custody of the sending state. Any acts of officers, employees, or agencies of the receiving state in providing or facilitating detention, housing or transportation for the mentally disordered offender shall be only as agents for the sending state.

(e) Promptly upon conclusion of the hearing the court shall dismiss the untried indictment, information or complaint, if it finds that the purposes enumerated in paragraph (b) of this Article would be served thereby. Otherwise, the court shall make such order with respect to the petition and the untried indictment, information or complaint as may be appropriate in the circumstances and consistent with the status of the defendant as a mentally disordered offender in the custody of and subject to the jurisdiction of the sending state.

(f) No fact or other matter established or adjudicated at any hearing pursuant to this Article, or in connection there-

with, shall be deemed established or adjudicated, nor shall the same be admissible in evidence, in any subsequent prosecution of the untried indictment, information or complaint concerned in a petition filed pursuant to this Article unless:

1. The defendant or his duly empowered legal representative requested or expressly acquiesced in the making of the petition, and was afforded an opportunity to participate in person in the hearing; or

2. The defendant himself offers or consents to the introduction of the determination or adjudication at such subsequent proceedings.

ARTICLE VI

Acts Not Reviewable in Receiving State; Return

(a) Any decision of the sending state in respect of any matter over which it retains jurisdiction pursuant to this compact shall be conclusive upon and not reviewable within the receiving state, but if at the time the sending state seeks to remove a patient from the receiving state there is pending against the patient within such state any criminal charge or if the patient is suspected of having committed within such state a criminal offense, the patient shall not be returned without the consent of the receiving state until discharged from prosecution or other form of proceeding, imprisonment or detention for such offense. The duly accredited officers of the sending state shall be permitted to transport patients pursuant to this compact through any and all states party to this compact without interference.

(b) A patient who escapes while receiving care and treatment or who violates provisions of after-care by leaving the jurisdiction, or while being detained or transported pursuant to this compact shall be deemed an escapee from the sending state and from the state in which the facility is situated or the after-care was being provided. In the case of an escape to a jurisdiction other than the sending or receiving state, the responsibility for return shall be that of the sending state, but nothing contained herein shall be construed to prevent or affect the activities of officers and agencies of any jurisdiction directed toward the apprehension and return of an escapee.

ARTICLE VII

Federal Aid

Any state party to this compact may accept federal aid for use in connection with any facility or program, the use of which is or may be affected by this compact or any contract pursuant thereto and any patient in a receiving state pursuant to this compact may participate in any such federally aided program or activity for which the sending and receiving states

have made contractual provision: provided that if such program or activity is not part of the customary regimen of the facility, or program the express consent of the appropriate official of the sending state shall be required therefor.

ARTICLE VIII

Entry Into Force

This compact shall enter into force and become effective and binding upon the states so acting when it has been enacted into law by any two states from among the states of Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota and Wisconsin. Thereafter, this compact shall enter into force and become effective and binding as to any other of said states, or any other state upon similar action by such state.

ARTICLE IX

Withdrawal and Termination

This compact shall continue in force and remain binding upon a party state until it shall have enacted a statute repealing the same and providing for the sending of formal written notice of withdrawal from the compact to the appropriate officials of all other party states. An actual withdrawal shall not take effect until two years after the notices provided in said statute have been sent. Such withdrawal shall not relieve the withdrawing state from its obligations assumed hereunder prior to the effective date of withdrawal. Before the effective date of withdrawal, a withdrawing state shall remove to its territory, at its own expense, such patients as it may have in other party states pursuant to the provisions of this compact.

ARTICLE X

Other Arrangements Unaffected

Nothing contained in this compact shall be construed to abrogate or impair any agreement or other arrangement which a party state may have with a nonparty state for the custody, care, treatment, rehabilitation or after-care of patients nor to repeal any other laws of a party state authorizing the making of cooperative arrangements.

ARTICLE XI

Construction and Severability

The provisions of this compact shall be liberally construed and shall be severable. If any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any participating 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 participating therein, 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. State Health Officer Shall Administer Compact.) The state health officer is hereby authorized to negotiate and enter into contracts on behalf of the state pursuant to Article III of the compact and may perform such contracts, provided that no funds, personnel, facilities, equipment, supplies or materials shall be pledged, committed or used on account of any such contract unless legally available therefor.

Approved March 14, 1967.

CHAPTER 222

S. B. No. 390

(Larsen, Lowe, Litten, Longmire, Coughlin)

SHELTERED WORKSHOPS FOR THE HANDICAPPED

AN ACT

To provide for the establishment, administration, organization, and management of sheltered workshops.

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

§ 1. Legislative Intent.) The purposes of this Act are:

1. To improve rehabilitation services for the seriously handicapped including the mentally retarded in North Dakota by providing for the development and continuation of long-term sheltered workshops.
2. To provide for licensure and standard-setting for sheltered workshops, and to establish responsibility for development and continuation of a statewide program by the division of vocational rehabilitation.

§ 2. Sheltered Workshop—Definition.) For purposes of this Act, a sheltered workshop is a nonprofit organization where useful work is carried on, and which is operated for the purpose of providing remunerative employment to severely handicapped individuals, including the mentally retarded, who are unable to participate in competitive employment due to their disability. A long-term sheltered workshop shall supply such employment:

1. As a step in the rehabilitative process for those who cannot be readily absorbed in the competitive labor market.
2. During such time as employment opportunities for them in the competitive labor market do not exist.

§ 3. Advisory Committee.) The division of vocational rehabilitation shall appoint a sheltered workshop advisory committee of eleven members, seven members of which shall be representatives of each of the following state organizations or agencies:

1. Division of vocational rehabilitation.
2. Department of public instruction—special education.
3. Workmen's compensation bureau.
4. North Dakota state employment service.
5. Organized labor.
6. Public welfare board—medical services.
7. North Dakota association for retarded children.

The other four members shall be appointed from professional, legislative, or civic groups, or from other public or non-public voluntary agencies. Such members shall serve at the pleasure of the division of vocational rehabilitation without compensation.

It shall be the duty of the sheltered workshop advisory committee to recommend standards for community sheltered workshops for the seriously handicapped, including the mentally retarded. These standards shall include those for physical plant, programming, staff, ratio of staff to persons served, policies, records and reports required, and such other standards deemed appropriate, and shall submit the same to the division for its approval. The committee shall also advise the division on the general policy involved in the provision of sheltered workshop services and shall perform such other functions as the division may request.

§ 4. Duties of the Division of Vocational Rehabilitation.)

1. The division of vocational rehabilitation shall issue licenses on an annual basis to programs meeting approved standards and applying for licensure.
2. Other duties of the division:
 - a. To encourage the development of local community initiative in broadening the scope of noninstitutional care and training programs for persons who are mentally retarded or seriously handicapped.

- b. To maintain minimum standards for the operation of such programs.
- c. To review the experience of individual programs as they develop.
- d. To foster the progress of sheltered workshops to higher levels of service and to stimulate their rehabilitative aspects.

§ 5. Organizations Eligible for Licensure.) Eligible local community organizations shall be organizations which are nonprofit corporations operating sheltered workshops and serving the seriously handicapped, including the mentally retarded, without regard to race, religion, or national origin. Such organizations shall be licensed in accordance with this Act and conform to standards recommended by the advisory committee and established by the division of vocational rehabilitation.

§ 6. Qualifications for Licensure.) In order to be eligible for licensure, the sheltered workshops shall operate their program under the direction of a board of directors from the local community and shall be appointed by the officers of the nonprofit corporation. This board of directors shall be made up of a minimum of nine members and not more than thirteen members. It shall serve without compensation. Membership shall include representatives of local health, education, welfare, employment and vocational rehabilitation agencies, lay associations for the disabled, and business and civic groups. It may also include individuals who are legislators, members of a town board, city or village council, or a board of county commissioners, as well as professional members and the lay public.

The term of office of each member of the community sheltered workshop board shall be for four years, measured from the first day of the year of appointment except as follows: of the members first appointed, at least three shall be appointed for a term of two years, at least three for a term of three years, and at least three for a term of four years. Vacancies shall be filled for the unexpired term in the same manner as original appointments. Any member of a board may be removed by the appointing authority for neglect of duty, misconduct or malfeasance in office, after being given a written statement of charges and an opportunity to be heard thereon.

§ 7. Duties of Community Sheltered Workshop Board.) Subject to the provisions of this Act and the rules and regulations of the division of vocational rehabilitation, each community sheltered workshop board shall:

1. Employ necessary and qualified personnel, including an employee who will administer the program.
2. Review and evaluate the need for a sheltered workshop program as provided for by this Act and report thereon to the division of vocational rehabilitation, the administrator of the program, and, when indicated, the public, together with recommendations for additional services and facilities.
3. Recruit and promote financial support for the program from private sources such as community chests, business, industrial and private foundations, voluntary agencies, and other lawful sources.
4. Promote, arrange, and implement working agreements with other public and private agencies.
5. Advise the administrator of the sheltered workshop on the adoption and implementation of policies to stimulate effective community relations.
6. Review the annual plan and budget and make recommendations thereon.

Approved March 14, 1967.

CHAPTER 223

S. B. No. 249

(Longmire, Ruemmele, Kelly(24), Litten, Pyle)

PURCHASE OF RESIDENTIAL CARE FOR MENTALLY RETARDED

AN ACT

To provide for the purchasing of residential care, custody, training, treatment or education of the mentally retarded by the state from private, nonprofit, charitable organizations.

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. "Treatment and/or care center" shall mean any hospital, home, or other premises, owned and operated by a charitable nonprofit corporation or association, especially to provide relief, care, custody, treatment, training or education of the mentally retarded.

2. "Division" shall mean the state mental health and retardation division of the state department of health.

§ 2. License Required.) Any charitable nonprofit association or corporation which operates a treatment and/or care center for mentally retarded shall secure annually from the division a license as required in this chapter.

§ 3. Requirements for License.) A license for the operation of a treatment and/or care center for mentally retarded shall be issued by the division to reputable and responsible charitable nonprofit associations or corporations upon showing that:

1. The premises to be used are in fit safe sanitary condition and properly equipped to provide good care and treatment;
2. The persons in active charge of the center and their assistants are qualified by training and experience to carry on efficiently the duties required of them;
3. The health, morality, safety and well-being of the residents cared for and treated therein will be properly safeguarded;
4. There is sufficient entertainment, treatment, educational, and physical facilities and services available to the residents therein; and
5. Appropriate arrangements are made for a medical and psychological examination of each resident at least once every six months.

§ 4. Inspection and Report by State Department of Health.) The division shall inspect the facilities and premises of the applicant to determine sanitary conditions and the adequacy of medical and nursing services.

§ 5. Content of License.) The license to operate a treatment and/or care center for mentally retarded issued under the provisions of this chapter shall set forth:

1. The name of the licensee;
2. The premises to which the license is applicable;
3. The number of residents who may be received in such premises at any one time; and
4. The date of expiration of the license.

§ 6. Regulation by State Mental Health and Retardation Division of State Department of Health.) The division may prescribe forms for the registration and record of the residents residing in treatment and/or care centers for mentally retarded and shall make such reasonable rules and regulations

for the conduct of such centers as are necessary to carry out the purposes of this chapter.

§ 7. Records of Treatment and/or Care Center for Mentally Retarded Confidential.) No agent of the department of health or the superintendent of the Grafton state school or the licensee or their agents or employees shall disclose the contents of the individual records of a treatment and/or care center for mentally retarded, nor of the reports received therefrom, except:

1. In a judicial proceeding when ordered by the presiding judge; or
2. To officers of the law or any other legally constituted boards or agencies serving the interests of the residents; or
3. To the parents or legal guardians of the resident.

§ 8. Revocation of License.) The division may revoke a license of a treatment and/or care center for mentally retarded upon a proper showing that:

1. Any of the conditions set forth in section 3 as requirements for the issuance of the license no longer exists;
2. The license was issued upon fraudulent or untrue representations;
3. The owner or operator has violated any of the rules and regulations of the division; or
4. The owner or operator of the center has been guilty of the violation of any law of this state disclosing moral turpitude.

§ 9. Hearing on Denial or Revocation of License.) Before any application for a license to conduct a treatment and/or care center for mentally retarded shall be denied or before the revocation of such license by the division, written charges as to the reasons therefor shall be served upon the applicant or licensee, who shall have the right to a hearing before the division, if such hearing is requested within ten days after service of written charges.

§ 10. Purchase of Services.) The state mental health and retardation division of the state department of health is hereby authorized to purchase from funds appropriated to it for that purpose, residential care, custody, treatment, training, and education for mentally retarded from any treatment and/or care center for mentally retarded licensed in the state of North Dakota. The cost of such care, custody, treatment and education for each resident shall not exceed the per diem cost of

residential care at the largest state institution serving the mentally retarded in North Dakota as determined by the superintendent of that institution for the fiscal year preceding the contract.

§ 11. Funds of State Mental Health and Retardation Division of the State Department of Health for Purchasing Residential Care, Custody, Treatment and Education for Mentally Retarded.) All moneys received from appropriation by the legislature to purchase residential care, custody, treatment, training, and education for mentally retarded from any treatment and/or care centers licensed in North Dakota shall be kept by the state treasurer in a fund known as the "fund of the state mental health and retardation division of the state department of health for purchasing residential care, custody, treatment, training, and education for mentally retarded", and all expenditures made under the provisions of this chapter shall be upon warrants prepared by the department of accounts and purchases and signed by the state auditor, such expenditures to be supported by vouchers to be signed by the director of the mental health and retardation division of the state department of health or his agents, or by such other officer or assistants as the division 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.

§ 12. State Mental Health and Retardation Division of State Department of Health Funds.) The state mental health and retardation division of the state department of health and the duly licensed treatment and/or care center for mentally retarded are hereby authorized to exert all possible efforts to obtain grants, both private and governmental, for the care, custody, treatment, training, and education of the mentally retarded.

§ 13. Expenses Chargeable Against Patient, His Estate or Responsible Relatives.) The provisions of this chapter shall in no way relieve the responsibility of the patient, his estate, or responsible relatives of the expenses for care and treatment as is provided in chapter 25-09 of the North Dakota Century Code, and all the provisions of chapter 25-09 and other statutes applicable to the expenses of care and treatment of patients shall apply to this chapter.

Approved March 14, 1967.

CHAPTER 224

S. B. No. 52
(Longmire, Ruemmele)
(From LRC Study)

TESTING AND TREATMENT FOR PHENYLKETONURIA

AN ACT

To provide for the testing and treatment of the disease phenylketonuria and other metabolic diseases causing mental retardation, providing for an educational program concerning such diseases under the direction of the department of health, and requiring physicians attending newborn infants to subject such infants to tests for phenylketonuria and other metabolic diseases.

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

§ 1. Phenylketonuria Education Programs and Tests.) The state department of health shall:

1. Develop and carry out an intensive educational program among physicians, staffs of hospitals, public health nurses, and the citizens of this state concerning the disease phenylketonuria and other metabolic diseases causing mental retardation for which appropriate methods of detection, prevention, or treatment are available. This educational program shall include information about the nature of the diseases and examinations for the early detection of such diseases in order that proper measures may be taken to prevent mental retardation;

2. Provide on a statewide basis screening, diagnostic, and treatment control tests for which approved laboratory procedures are available for phenylketonuria and other metabolic diseases causing mental retardation.

§ 2. Establishment of Testing Regulations—Approval of Laboratories and Personnel.) The state department of health shall establish standards and methods of testing to be employed and for the determination of the above-referred diseases, in addition to phenylketonuria, for which statewide testing programs are to be established.

§ 3. Treatment for Positive Diagnosis—Registry of Cases.) The state department of health shall:

1. Follow up all cases with positive tests for phenylketonuria and other metabolic diseases with the attending physician in order to determine the exact diagnosis;

2. Make arrangements for the necessary treatment for diagnosed cases where treatment is indicated and the family is unable to pay the cost of such treatment;
3. Maintain a registry of cases of phenylketonuria and other metabolic diseases for the purpose of follow-up services to prevent mental retardation.

§ 4. Physician to Initiate Test and Report Positive Diagnosis.) The physician attending a newborn child shall cause such child to be subjected to a phenylketonuria test, as well as other tests for errors of metabolism, in the manner prescribed by the state department of health. A physician attending a case of phenylketonuria or other metabolic disease which may cause mental retardation shall report such case to the state department of health. The provisions of this section shall not apply if the parents of such child object thereto on the grounds that such test conflicts with their religious tenets and practices.

Approved February 11, 1967.

INSURANCE

CHAPTER 225

H. B. No. 842

(Bunker)

INSURANCE COMMISSIONER FEES

AN ACT

To amend and reenact section 26-01-04 of the North Dakota Century Code, relating to fees chargeable by the commissioner of insurance.

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

§ 1. **Amendment.)** Section 26-01-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-01-04. Fees Chargeable by Commissioner of Insurance.) The commissioner of insurance shall charge and collect the following fees except that county mutual insurance companies and benevolent societies shall be liable only for the fees mentioned in subsections 3, 6, 9, 12, and 16:

1. For filing articles of incorporation, or copies, or amendments thereof, twenty-five dollars;
2. For filing an annual statement, twenty-five dollars;
3. For each original certificate of authority issued upon admittance, fifty dollars and for renewal of certificate of authority, amendment to certificate of authority, or certified copy thereof, twenty-five dollars;
4. For a copy of any paper filed in his office, twenty cents per folio;
5. For affixing his official seal on a copy of any paper filed in his office and certifying such copy, one dollar;
6. For an official examination, the actual expense and per diem incurred; such per diem charge not to exceed twenty-five dollars;
7. For issuing a certificate to a domestic insurance company showing a compliance with the compulsory reserve provisions of this title and the maintenance of proper security deposits, and for any renewal of such certificate, five dollars;

8. For filing an annual report of a fraternal benefit society, and issuing a license or permit to such society, and for each renewal thereof, fifteen dollars;
9. For issuing a license for an agent of a domestic insurance company, county mutual insurance company, fraternal benefit society, or any other society, or a certificate or a copy thereof, three dollars;
10. For issuing a license for a resident agent of a foreign insurance company, or a certificate or copy thereof, three dollars;
11. For issuing a nonresident insurance agent's license, ten dollars;
12. For each abstract of the annual statement of an insurance company for publication, two dollars;
13. For issuing an annual reciprocal exchange license, the same fees as those applicable to the issuance of a certificate of authority in subsection 3;
14. For issuing a license to a resident agent for the attorney for a reciprocal exchange, three dollars;
15. For receiving the service of process as attorney, whether he is served with such process or admits service thereon, two dollars;
16. For written agents' examination administered by the office of the insurance commissioner, ten dollars;
17. For filing of any miscellaneous documents or papers, including documents of admission and those filed annually upon license renewal, (each) one dollar;
18. For filing of articles of merger, or copies thereof, thirty dollars;
19. For filing bylaws or amendments thereof, five dollars;
20. For filing of power of attorney by non-admitted insurer for conduct of business in compliance with surplus lines laws of this state, ten dollars;

Approved March 6, 1967.

CHAPTER 226

H. B. No. 914
(Lang, Metzger)

CANCELLATION OR NONRENEWAL OF AUTOMOBILE
LIABILITY INSURANCE

AN ACT

To provide that automobile liability insurance shall not be canceled without proper notice, with reason for cancellation to be provided, and for nonliability of parties.

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

§ 1. Automobile Insurance — Cancellation — Notice and Reasons Therefor.) No contract of automobile liability insurance delivered or issued for delivery in this state and insuring a private passenger automobile which has been in effect for sixty days or more shall be terminated by cancellation except for nonpayment of premium, unless the insurer mails or delivers to the named insured at the address shown in the policy, a notice in writing at least thirty days prior to the effective date of cancellation of the intent of the insurer to cancel the insured's policy. Said notice shall contain or be accompanied by a statement that upon written request of the named insured mailed or delivered to the insurer not less than ten days prior to the effective date of cancellation or nonrenewal, the insurer will specify the reason or reasons for such cancellation (or nonrenewal).

§ 2. Notice of Nonrenewal.) No insurer shall fail to renew an automobile liability insurance policy delivered or issued for delivery in this state and insuring a private passenger automobile unless it shall mail or deliver to the named insured, at the address shown in the policy, at least twenty days' advance notice of its intention not to renew. Said notice shall contain or be accompanied by a statement that upon written request of the named insured mailed or delivered to the insurer prior to the date of nonrenewal, the insurer will specify the reason or reasons for such nonrenewal. This section shall not apply:

1. Where the named insured has failed to discharge when due any of his obligations in connection with the payment of premiums for the policy, or the renewal thereof, or any installment payments therefor, whether payable directly to the insurer or its agent or indirectly under any premium finance plan or extension of credit;

provided that, notwithstanding the failure of an insurer to comply with this section, the policy shall terminate on the effective date of any other automobile liability insurance policy procured by the insured, with respect to any automobile designated in both policies.

Renewal or continuation of a policy shall not constitute a waiver or estoppel with respect to grounds for cancellation which existed before the effective date of such renewal or continuance.

§ 3. Nonliability of Parties.) The specific reason for cancellation, which is furnished to the insured, shall not constitute grounds for any cause of action against the insurer or his authorized representative, or its agents or employees, or any firm, person or corporation who in good faith furnishes to the insurer the information upon which the reasons for cancellation are based.

§ 4. Exception.) The provisions of this article shall not apply to policies of liability insurance issued under the North Dakota assigned risk plan.

Approved March 15, 1967.

CHAPTER 227

H. B. No. 613

(Bunker, Dahl, Hoghaug, Aafedt, Dornacker)

PERIOD OF EXISTENCE OF DOMESTIC INSURANCE COMPANY

AN ACT

To amend and reenact subsection 4 of section 26-08-05 of the North Dakota Century Code, relating to the period of corporate existence permitted of a domestic insurance company.

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

§ 1. Amendment.) Subsection 4 of section 26-08-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. The period of its existence which may be perpetual;

Approved February 27, 1967.

CHAPTER 228

H. B. No. 612

(Bunker, Dahl, Hoghaug, Aafedt, Dornacker)

INVESTMENT OF FUNDS OF INSURANCE COMPANIES

AN ACT

To amend and reenact subsection 3 of section 26-08-11 of the 1965 Supplement to the North Dakota Century Code, relating to the authorized investment of funds of insurance companies.

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

§ 1. Amendment.) Subsection 3 of section 26-08-11 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. Notes secured by mortgages on improved unencumbered real estate, including leaseholds substantially having and furnishing the rights and protection of a first real estate mortgage, within this state or within any state in which such company is, or becomes, authorized and licensed to transact business, or within any state contiguous to the state of North Dakota. No loan shall be made under this subsection, however, unless the property mortgaged is worth double the amount of the loan secured by the mortgage, except that where a loan is amortized on the basis of a final maturity twenty-five years or less from the date of the loan, it may be made in an amount not exceeding seventy-five percent of the value of the property mortgaged. Buildings shall not be included in the valuation of such property unless they are insured and the policies are made payable to the company as its interest may appear. In no event shall a loan be made in excess of the amount of insurance carried on the buildings plus the value of the land. No insurance company shall hold less than the entire loan represented by such bonds or notes described in this subsection except that a company may own part of an aggregate obligation if all other participants in the investment are insurance companies authorized to do business in North Dakota and/or banks whose depositors are insured by the federal deposit insurance corporation and/or savings and loan associations whose members are insured by the federal savings and loan insurance corporation or unless the security of said bonds or notes, as well as all collateral papers, including insurance policies, executed in connection therewith,

are made to and held by a trustee, which trustee shall be a solvent bank or trust company having a paid-in capital of not less than two hundred and fifty thousand dollars, except in case of banks or trust companies incorporated under the laws of the state of North Dakota, wherein a paid-in capital of not less than one hundred thousand dollars shall be required, and that in case of proper notification of default such trustee, upon request of at least twenty-five percent of the holders of the bonds outstanding, and proper indemnification, shall proceed to protect the rights of such bondholders under the provisions of the trust indentures.

Approved February 27, 1967.

CHAPTER 229

H. B. No. 611

(Bunker, Dahl, Hoghaug, Aafedt, Dornacker)

TRANSACTION OF BUSINESS OF FOREIGN INSURANCE COMPANIES

AN ACT

To create and enact subsection 11 of section 26-09-01 of the North Dakota Century Code, providing conditions to be complied with by foreign insurance companies before transacting business in state.

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

§ 1. Amendment.) Subsection 11 of section 26-09-01 of the North Dakota Century Code is hereby created and enacted to read as follows:

11. Adopted a name which is not so similar to a name already in use by an existing company organized or licensed in this state as to be confusing or misleading.

Approved February 27, 1967.

CHAPTER 230

H. B. No. 794

(Bunker, Haugland, Boustead, Hilleboe, Williamson, Fossum,
(Sanstead))

LICENSING OF INSURANCE AGENTS

AN ACT

To provide for the qualification and licensing of insurance agents; and providing a penalty; and to repeal sections 26-10-13, 26-17-01, 26-17-03, 26-17-04, and 26-17-05 of the North Dakota Century Code, relating to licensing, liability, suspension and revocation of licenses, and review of the commissioner's orders.

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

§ 1. Insurance Agent, Subagent, and Insurer Defined.)

1. The term "insurance agent" means any authorized or acknowledged agent of an insurer and any subagent of such agent who acts as such in the solicitation of, negotiation for, or procurement or making of insurance, annuity, or surety contracts; except that the term "insurance agent" shall not include any regular salaried officer or employee of a licensed insurer or of a licensed insurance agent who does not solicit or accept from the public applications for any such contract. A regular salaried officer or employee of an insurer authorized to do business in this state shall not be deemed to be an "insurance agent" by reason of rendering assistance to or on behalf of a licensed insurance agent, provided that such salaried officer or employee devotes substantially all of his time to activities other than the solicitation of applications for insurance, annuity, or surety contracts and receives no commission or other compensation directly dependent upon the amount of business obtained.

2. The term "subagent" means any person, except as provided in paragraph 1, who acts for or on behalf of a licensed insurance agent in the solicitation of, negotiation for, or procurement or making of insurance, annuity, or surety contracts, whether or not he is designated by such agent as a subagent or a solicitor or by any other title. Each subagent shall be deemed to be an insurance agent, as defined above, and wherever in succeeding sections of this Act the term "insurance agent" is used, it shall include subagents, whether or not they are specifically mentioned. Each such person shall individually file an application for license and submit to a written examination as hereafter provided for applicants for an insurance agent's license.

3. The term "insurer" means any company, society, or other insurance organization or association, however constituted or entitled, including surety companies, fraternal benefit societies, reciprocal or interinsurance exchanges, nonprofit hospital service corporations, nonprofit medical service corporations, and nonprofit dental service corporations.

4. Any person may be licensed as an insurance agent upon compliance with the provisions of this law.

§ 2. Acting for Unauthorized Companies Prohibited.) 1. No person shall, within this state, solicit, procure, receive, or forward applications for insurance, annuity, or surety contracts or issue or deliver policies for, or in any manner secure, help, or aid in the placing of any insurance, annuity, or surety contracts for any person other than himself, directly or indirectly, with any insurer not authorized to do business in this state.

2. Any person shall be personally liable for the full amount of any loss sustained on any insurance, annuity, or surety contracts made by or through him or it, directly or indirectly, with any insurer not authorized to do business in this state and, in addition, for any premium taxes which may become due under any law of this state by reason of such contract.

§ 3. Acting as Agent Without License Prohibited: No Commissions To Be Paid to Unlicensed Persons.) 1. No person shall act as an insurance agent within this state until he shall have procured a license as required by the laws of this state.

2. No insurer or licensed insurance agent doing business in this state shall pay, directly or indirectly, any commission or other valuable consideration to any person for services as an insurance agent within this state, unless such person shall hold a currently valid license to act as an insurance agent as required by the laws of this state; nor shall any person, other than a duly licensed insurance agent, accept any such commission or other valuable consideration; provided, however, that the provisions of this section shall not prevent the payment or receipt of renewal or other deferred commissions to or by any person solely because such person has ceased to hold a license to act as an insurance agent.

§ 4. Application for License.) 1. Each applicant for a license to act as an insurance agent within this state shall file with the commissioner of insurance his written application on forms furnished by the commissioner. The application shall be signed and duly sworn to by the applicant. The prescribed form shall require the applicant to state his full name; residence; age; occupation and place of business for five years preceding date of the application; whether applicant has ever

held a license to solicit any insurance in any state; whether he has been refused, or has had suspended or revoked, a license to solicit any insurance in any state; what insurance experience, if any, he has had; what instruction in insurance and in the insurance laws of this state he has had or expects to have; whether any insurer or general agent claims applicant is indebted under an agency contract or otherwise, and, if so, the name of the claimant, the nature of the claim, and the applicant's defense thereto; whether applicant has had an agency contract canceled, and, if so, when, by what insurer or general agent, and the reasons therefor; whether applicant will devote all or part of his efforts to acting as an insurance agent, and, if part only, how much time he will devote to such work and in what other business or businesses he is engaged or employed; whether, if applicant is a married woman, her husband has ever applied for or held a license to solicit any insurance in any state and whether such license has been refused, suspended, or revoked; such other information as the commissioner of insurance in his discretion may require.

2. The application shall be accompanied by a certificate on forms furnished by the commissioner of insurance and signed by an officer or properly authorized representative of the insurer stating that the insurer has investigated the character and background of the applicant and is satisfied that he is trustworthy and qualified to act as its agent and to hold himself out in good faith to the general public as an insurance agent and that the insurer desires that the applicant be licensed as an insurance agent to represent it in this state.

3. The application, when filed, shall be accompanied by an annual fee in the amount specified in section 26-01-04, and in the case of applicants required to take an examination as hereafter prescribed, by an examination fee in the amount of \$10.00. In the event an applicant fails to qualify for or is refused a license, the annual fee shall be returned; the examination fee shall not be returned for any reason.

§ 5. Examination of Applicant for License.) 1. Each applicant for a license to act as an insurance agent within this state shall submit to a personal written examination to determine his competence with respect to the kind or kinds of insurance, annuity, and surety contracts he intends to solicit, negotiate, or effect and his familiarity with the pertinent laws of this state and shall pass the same to the satisfaction of the commissioner of insurance; except that no such written examination shall be required of:

- a. An applicant for a renewal license, provided that he shall pay an initial registration fee of five dollars with his

application, unless the commissioner of insurance determines that such examination is necessary to establish the competency or trustworthiness of such individual; or unless a license had not been issued to such applicant within two years preceding the date of filing his application;

- b. An applicant for a license to represent a fraternal benefit society or a county mutual insurance company, provided that such applicant had acted in the capacity of an agent for a fraternal benefit society or a county mutual insurance company for one year next preceding the effective date of this Act, and provided further that he shall pay an initial registration fee of five dollars with his application, unless the commissioner of insurance determines that such examination is necessary to establish the competency or trustworthiness of such applicant;
- c. An applicant who is a ticket selling agent or other representative of a public carrier and who shall act under a restricted license only as an agent with respect to health and accident insurance tickets covering risks of travel or baggage insurance on personal effects;
- d. In the discretion of the commissioner of insurance, an applicant whose license to do business or act as an insurance agent in this state was suspended less than one year prior to the date of application;
- e. Attorneys licensed for the issuance of surety bonds;
- f. Persons engaged in the business of fur storage who deliver to their customers certificates or policies providing insurance on specified furs, garments trimmed with fur, or other garments accepted for storage and who collect the premiums therefor, if they receive no compensation for such services;
- g. Jewelers who provide for specific insurance on merchandise sold, provided they receive no compensation for such service.

2. The commissioner of insurance may establish rules and regulations with respect to the scope, type, and conduct of such written examinations and the times and places within this state where they shall be held; provided, that applicants shall be permitted to take such examinations at least once in each week at the principal office of the commissioner of insurance.

3. No person who shall have taken and failed to pass two examinations given pursuant to this section shall be entitled

to take any further examination until after the expiration of six months from the date of the last examination which he failed. If such person shall thereafter fail to pass two more such examinations, he shall not be eligible to take any further examination until after the expiration of one year from the date of his last unsuccessful examination. An examination fee shall be paid for each and every examination.

4. The commissioner of insurance is authorized in his discretion to appoint an advisory board to make recommendations to him with respect to the scope, type, and conduct of written examinations and the times and places within the state where they shall be held. The members of the board shall serve without pay but, upon the authorization of the commissioner of insurance, shall be reimbursed for their reasonable expenses in attending meetings of the advisory board.

§ 6. **Issuance or Refusal of License.**) If the commissioner of insurance is satisfied that the applicant is trustworthy and competent and the applicant, if required, has passed his written examination, a license shall be issued forthwith, limited to the insurer and kind or kinds of insurance for which the agent is to be appointed. If the applicant has not passed his written examination, the commissioner of insurance shall notify the applicant and the insurer in writing that a license will not be issued to him.

§ 7. **Nonresident May Be Licensed.**) 1. A person not resident in this state may be licensed as a nonresident insurance agent upon compliance with the provisions of this Act, provided that the state in which such person resides will accord the same privilege to a citizen of this state, and provided further that he shall pay an initial registration fee of five dollars with his application.

2. The commissioner of insurance is further authorized to enter into reciprocal agreements with the appropriate official of any other state waiving the written examination of any applicant resident in such other state, provided:

- a. That a written examination is required of applicants for an insurance agent's license in such other state;
- b. That the appropriate official of such other state certifies that the applicant holds a currently valid license as an insurance agent in such other state and either passed such written examination or was the holder of an insurance agent's license prior to the time such written examination was required;
- c. That the applicant has no place of business within this state in the transaction of business as an insurance agent;

- d. That in such other state, a resident of this state is privileged to procure an insurance agent's license upon the foregoing conditions and without discrimination as to fees or otherwise in favor of the residents of such other state.

§ 8. Agent May Be Licensed to Represent Additional Insurers.) 1. Any insurance agent licensed in this state may apply to the commissioner at any time while his license is in force for an additional license or licenses authorizing him to act as an insurance agent for the same kind or kinds of insurance for an additional insurer or insurers. Such application shall set forth each insurer which the applicant is then licensed to represent; a certificate from the insurer to be named in each additional license applied for that it desires to appoint the applicant as its agent; and such other information as the commissioner of insurance may require. Upon receipt of each such application and the license fee required by section 26-01-04, the commissioner of insurance may issue such additional license without examination of or further investigation concerning the applicant.

2. Any insurance agent licensed in this state may place excess or rejected risks with any insurer lawfully doing business in this state other than an insurer such agent is licensed to represent; provided, however, that such insurance agent shall procure an additional license to represent such other insurer before receiving commissions or other compensation for his services.

§ 9. Expiration and Renewal of Agent's License.) 1. Each license issued to an insurance agent shall expire on the thirtieth day of April following the date of issue, unless prior thereto it is revoked or suspended by the commissioner of insurance or the authority of the agent to act for the insurer is terminated.

2. In the absence of a contrary ruling by the commissioner, license renewals may be issued from year to year upon request of the insurer without further action on the part of the agent.

§ 10. Temporary License.) The commissioner of insurance, if he is satisfied with the honesty and trustworthiness of the applicant, may issue a temporary insurance agent's license without requiring the applicant to pass a written examination, as follows:

1. To the executor or administrator of the estate of a deceased person who at the time of his death was a licensed insurance agent;

2. To a surviving next of kin of such a deceased person, if no administrator or executor has been appointed and qualified, but any license issued under this subparagraph shall be revoked upon issuance of a license to an executor or administrator under subparagraph 1 above;
3. A license issued pursuant to this section shall permit the executor, administrator, or next of kin, as the case may be, to maintain such business as the deceased licensee had in force at the time of his death, but shall not entitle the executor, administrator, or next of kin to solicit, negotiate, procure, or effect new contracts of insurance.
4. No license issued under this section shall be effective for more than ninety (90) days. The commissioner, in his discretion, may renew once a license granted upon proper application and for good cause.

§ 11. Insurer to Notify Commissioner of Termination of Contract — Communications Privileged — Return of License.)

1. Every insurer shall, upon termination of the appointment of any insurance agent, immediately file with the commissioner of insurance a statement of the facts relative to the termination of the appointment and the date and cause thereof. The commissioner shall thereupon terminate the license of such agent to represent such insurer in this state.

2. Any information, document, record, or statement required to be made or disclosed to the commissioner of insurance pursuant to this section shall be deemed a privileged communication and shall not be used as evidence in any court action or proceeding.

3. All licenses shall be the property of the state of North Dakota. Upon termination, suspension, revocation, or expiration without immediate renewal of a license, the licensee or other person having possession or custody of the license shall forthwith deliver it to the commissioner of insurance. In the event a license is lost, stolen, or destroyed, the commissioner may accept in lieu thereof the affidavit of the licensee or other person having possession or custody of the license concerning the facts of such loss, theft, or destruction.

§ 12. Refusal, Suspension, or Revocation of Licenses.) 1. A license may be refused or a license duly issued may be suspended or revoked or the renewal thereof refused by the commissioner of insurance, if he finds that the applicant for or holder of such license:

- a. Has willfully violated any provision of the insurance laws of this state or any lawful rule, regulation, or order of the commissioner; or

- b. Has intentionally made a material misstatement in the application for such license; or
- c. Has obtained or attempted to obtain such license by fraud or misrepresentation; or
- d. Has misappropriated or converted to his own use or illegally withheld money belonging to an insurer or an insured or beneficiary; or
- e. Has otherwise demonstrated lack of trustworthiness or competence to act as an insurance agent; or
- f. Has been convicted, by final judgment, of a crime involving moral turpitude; or
- g. Has been refused a license or had his license suspended or revoked in another state; or
- h. Has been guilty of fraudulent or dishonest practices; or
- i. Has materially misrepresented the terms and conditions of insurance policies or contracts; or
- j. Has made or issued, or caused to be made or issued, any statement misrepresenting or making incomplete or misleading comparisons regarding the terms or conditions of any insurance or annuity contract legally issued by any insurer, for the purpose of inducing or attempting to induce the owner of such contract to forfeit or surrender such contract or allow it to lapse for the purpose of replacing such contract with another; or
- k. Has obtained or attempted to obtain such license, not for the purpose of holding himself out to the general public as an insurance agent, but primarily for the purpose of soliciting, negotiating, or procuring insurance or annuity contracts covering himself or members of his family.

2. Before any license shall be refused (except for failure to pass a required written examination) or suspended or revoked or the renewal thereof refused hereunder, the commissioner of insurance shall give, either personally or by registered or certified mail, notice of opportunity for hearing to the applicant for or holder of such license and the insurer whom he represents or who desires that he be licensed. Such notice shall state the order which the commissioner proposes to issue, the grounds for issuing such order, and that the person to whom such notice is given will be afforded a hearing upon written request to the commissioner if such request is made within ten days after receipt of the notice.

3. Whenever a person requests a hearing in accordance with the provisions of this section, the commissioner of insurance shall set a date, time, and place for such hearing and shall

notify the person requesting such hearing thereof. The date set for such hearing shall be within fifteen days but not earlier than five days, after the request for the hearing has been received, unless otherwise agreed to by both the commissioner and the person requesting such hearing. In the conduct of such hearing, the commissioner of insurance or his designee shall have the powers specified in chapter 28 -32, and the proceedings shall conform to chapter 28-32 insofar as that chapter is applicable and not in conflict with this section.

4. If the commissioner of insurance does not receive a request for a hearing within the prescribed time, he may enter the proposed order. If a hearing is requested and conducted with respect to a proposed order, the commissioner shall make and state his findings of fact and separate conclusions of law and his decision based upon such findings and conclusions. The commissioner shall give notice of his decision by delivering a copy thereof to all the parties to the proceeding either personally or by registered or certified mail, and if such notice is given by registered or certified mail, the notice shall be deemed given as of the date of the registry or certification.

5. No licensee whose license has been revoked hereunder shall be entitled to file another application for a license as an insurance agent within two years from the effective date of such revocation or, if judicial review of such revocation is sought, within two years from the date of final court order or decree affirming such revocation. Such application, when filed, may be refused by the commissioner of insurance unless the applicant shows good cause why the revocation of his license shall not be deemed a bar to the issuance of a new license.

§ 13. Judicial Review of Acts of Commissioner.) Within thirty days after any order of refusal, suspension, or revocation of an agent's license is made by the commissioner of insurance, the person aggrieved thereby may petition the district court of Burleigh county for a review of the proceedings in connection therewith. Upon such petition, the court shall issue an order to the commissioner to show cause why such license should not be issued or reinstated, as the case may be, and upon a hearing thereon shall make such decision as the facts and the law shall warrant.

§ 14. Penalty.) Any person, partnership, association, or corporation violating any of the provisions of this Act shall, in addition to any other penalty specifically provided, be guilty of a misdemeanor and, upon conviction, shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both, each such violation being a separate offense

hereunder. In addition, if such offender holds a license as an insurance agent, such license may be suspended or revoked as hereinbefore provided.

§ 15. Commissioner May Establish Rules and Regulations.) The commissioner of insurance is authorized to establish, amend, and repeal rules and regulations for the administration of this Act.

§ 16. Appropriation.) There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of thirty thousand dollars or so much thereof as may be necessary, to the insurance department for the purpose of administering this Act for the biennium beginning July 1, 1967, and ending June 30, 1969.

§ 17. Revocation or Suspension of Agent's License for Misrepresentation or Discrimination—Appeal.) Upon satisfactory evidence of the violation of any of the provisions of this chapter relating to misrepresentation or discrimination by any agent or solicitor of any insurance or surety company, reciprocal, benevolent society, or any fraternal benefit society, or any other insurance organization, or association, however constituted or entitled, the commissioner may suspend or revoke the license of such offending solicitor or agent. When a license shall be suspended or revoked, the party aggrieved may appeal to the district court of Burleigh county.

§ 18. Repeal.) Sections 26-10-13, 26-17-01, 26-17-03, 26-17-04, and 26-17-05 of the North Dakota Century Code are hereby repealed.

Approved March 15, 1967.

CHAPTER 231

H. B. No. 913

(Lang)

EXCEPTIONS FOR FOREIGN INSURANCE AND SURETY
COMPANIES HAVING LOCAL AGENTS

AN ACT

To amend and reenact section 26-17-10 of the 1965 Supplement to the North Dakota Century Code, relating to exceptions for foreign insurance and surety companies having local agents.

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

§ 1. **Amendment.**) Section 26-17-10 of the 1965 Supplement to 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 appointed by the insurer 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. Bid bonds issued by any surety company in connection with any public or private contract.

Approved March 14, 1967.

CHAPTER 232

H. B. No. 615

(Davis, Connolly, Jenkins, Lee, Goodman)

REPEAL OF HAIL INSURANCE DEPARTMENT

AN ACT

To repeal chapter 26-22 of the North Dakota Century Code, relating to the hail insurance department and providing an effective date.

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

§ 1. Repeal.) Chapter 26-22 of the North Dakota Century Code is hereby repealed effective January 1, 1968.

§ 2. Effective Date.) The repeal of chapter 26-22 of the North Dakota Century Code shall become effective on January 1, 1968, and all subsequent provisions of this section shall supersede any existing provisions in chapter 26-22 as may be in conflict therewith effective July 1, 1967. No further insurance coverage shall be issued by the state hail insurance department on or after July 1, 1967. On or after July 1, 1967, the commissioner of insurance shall begin releasing employees of the state hail insurance department as the workload of such department decreases and all remaining employees of such department shall be released from employment by January 1, 1968. The balance of the state hail insurance fund as of January 1, 1968, as determined by the state treasurer shall be transferred to the state general fund less the sum as computed by the commissioner of insurance, necessary to pay all outstanding claims, loans, and liabilities. This sum shall be maintained as a special fund by the state treasurer until all claims, loans, and liabilities as determined by the commissioner of insurance have been paid, at which time any remaining balance shall also be transferred to the state general fund. All money including hail taxes and interest and penalties accruing thereon due and owing to the state hail insurance department as of January 1, 1968, shall remain an obligation to the state and shall be collected pursuant to the provisions of chapter 26-22 as it existed heretofore and when paid shall be deposited in the state general fund unless such money shall be determined by the state treasurer to be necessary for the payment of outstanding claims, loans, and liabilities, in which case the moneys shall be deposited in the special fund for the payment of such obligations and such funds are hereby appropriated for such purpose. The payment of any money due any party on or after January 1, 1968, shall be by a voucher signed

by the commissioner of insurance and approved by the state auditing board upon warrant checks issued by the department of accounts and purchases. All vested rights or causes of action of all parties under chapter 26-22 are hereby secured and shall be disposed of and adjudicated in accordance with the provisions of such chapter as it existed prior to its repeal.

Filed March 13, 1967.

Note: Chapter 232, designated as House Bill No. 615, was vetoed by the governor on February 28, 1967. The house of representatives passed House Bill No. 615 over the governor's veto on March 1, 1967, and the senate passed House Bill No. 615 over the governor's veto on March 3, 1967.

CHAPTER 233

S. B. No. 53

(Christensen, Lips)

(Committee on Legislative Audit and Fiscal Review)

STATE BONDING OF EMPLOYEES

AN ACT

To create and enact section 26-23-02.1, and to amend and reenact sections 26-23-01, 26-23-02, 26-23-05, 26-23-06 and 26-23-07 of the North Dakota Century Code, relating to the definition of "fund", provision for blanket bond coverage, state bonding fund under management of commissioner of insurance, report of election or appointment of public employee, and premiums.

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

§ 1. **Amendment.)** Section 26-23-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-23-01. Definitions.) In this chapter, unless the context or subject matter otherwise requires:

1. "Commissioner" shall mean the commissioner of insurance;
2. "Public employee" shall mean and include any officer, deputy, or employee of the state or any of its subdivisions who is required to be bonded by any law of this state;
3. "Blanket bond" shall mean a bond which covers collectively the entire personnel without the necessity of scheduling the employees' names or positions as a part

of the bond, and a bond whereby new employees entering employment during the period of the bond are automatically included without notice to the fund;

4. "Fund" shall mean the state bonding fund.

§ 2. **Amendment.)** Section 26-23-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-23-02. State Bonding Fund Under Management of Commissioner of Insurance.) The fund shall be under the management of the commissioner, and shall be maintained as a fund for the bonding of public employees including those who are not specifically required by law to be bonded. All moneys collected under the provisions of this chapter shall be paid into such fund.

§ 3.) Section 26-23-02.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

26-23-02.1. Blanket Bond Coverage Available to State Departments, Agencies, Industries, and Institutions.) The state bonding fund shall provide coverage as set forth in section 26-23-09 in the form of a blanket bond to state departments, agencies, industries, and institutions, and to political subdivisions, subject to the approval of the commissioner who may exclude certain employees or groups of employees. The commissioner shall prescribe the kind or kinds of blanket bond coverage, with or without deductible provisions, available through the fund, the procedure to be followed in obtaining such blanket bond coverage, and the forms upon which blanket bond coverage shall be requested. Public employees required to be bonded by law may be included in such blanket bond coverage, and such blanket bond coverage may be greater but not less than the maximum bond as provided in the law for such positions. Such blanket bond shall fulfill statutory bonding requirements for any position.

§ 4. **Amendment.)** Section 26-23-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

***26-23-05. Report of Election or Appointment of Public Employee—Payment of Premiums.)** Before any public employee, excluding one whose position is covered by a blanket bond, shall assume his duties, the state auditor, county auditor, city auditor, township clerk, or school district clerk, as the case may be, shall report to the commissioner in such manner

***Note:** Section 82 of chapter 323, 1967 S.L., also amended section 26-23-05.

and form as the commissioner shall prescribe, the election or appointment of such public employee and the amount of the bond required of him, and shall remit with such report by check, draft, or express or postal money order the premium required under the provisions of this chapter.

§ 5. Amendment.) Section 26-23-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-23-06. Premiums—Amount to Whom Paid—Minimum.) The premium for insurance furnished under this chapter, not including the premium for a blanket bond which shall be determined by the commissioner, shall be twenty-five cents per year per one hundred dollars of the amount of the required bond. Premiums shall be paid in advance by the proper authority of the state, or of the subdivision of the state, which the public employee for whom a bond is required was elected or appointed to serve, from its treasury, to the state treasurer who shall keep the same in the fund. The state treasurer shall issue quadruple receipts therefor. He shall file one of such receipts in his office, and shall mail one to the official making such payment, one to the commissioner, and one to the state auditor. The minimum premium for each bond shall be two dollars and fifty cents per year. Unless the term of office or employment shall be for a shorter period, payments shall be made for one year or for such longer terms as the commissioner may prescribe. The bonds of all retiring public employees shall be transferred to their successors for unexpired terms without any additional premium, when written application is made to the director of the state bonding fund. No notice or application shall be required when a public employee is covered under a blanket bond. From and after July 1, 1953, the premiums referred to in this section shall be waived until the reserve fund of the state bonding fund shall have been depleted below the sum of two and one-half million dollars. The collection of premiums shall be resumed on the bonds of all public employees of the state of North Dakota and each political subdivision thereof, at the rates herein set forth, whenever the said reserve fund shall have been depleted below the sum of two and one-half million dollars. Such premium shall be collected again until the said reserve fund shall reach a total of three million dollars, at which time all such premiums shall again be waived until such reserve fund has been depleted below the sum of two and one-half million dollars. This section with respect to the collection of bond premiums shall constitute a continuing plan of maintaining the reserve fund so that it shall never remain below the sum of two and one-half million dollars nor be allowed to exceed the sum of three million dollars.

§ 6. Amendment.) Section 26-23-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-23-07. Effect of Failure to Report Election or Appointment of Public Employee or Follow Procedure Prescribed by Commissioner and to Pay Bond Premium.) Unless the report required by section 26-23-05 shall be made in the case of an individual bond or the procedure prescribed by the commissioner is followed in the case of a blanket bond and the premium required by section 26-23-06 shall be paid within ten days after the service of a public employee has begun, the officer whose duty it is to make such report or follow such procedure and pay such premium, during the term of such default, shall be liable by force of this chapter as a surety on the bond of such public employee with the same effect and to the same extent as if such bond had been signed, approved, and filed as otherwise required by law. In addition thereto, any officer guilty of such default shall be liable to punishment as for a misdemeanor. No compensation shall be paid to any public employee unless his appointment or election has been reported or the procedure prescribed by the commissioner is followed, as the case may be, and the premium payment for such employee or blanket bond shall have been made to the commissioner or a bond shall have been filed in lieu thereof as provided in this chapter.

Approved March 6, 1967.

CHAPTER 234

S. B. No. 363
(Rait, Hernet)

STATE FIRE AND TORNADO FUND COVERAGES

AN ACT

To amend and reenact sections 26-24-02, 26-24-04, and 26-24-10 of the North Dakota Century Code and to amend and reenact sections 26-24-08, 26-24-09, and 26-24-13 of the Supplement of the North Dakota Century Code, relating to the coverages afforded by the state fire and tornado fund and the percentage of assessment to bureau rates.

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

§ 1. Amendment.) Section 26-24-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-24-02. State Fire and Tornado Fund Under Management of Commissioner of Insurance.) The fund shall be under the management of the commissioner and shall be maintained as a fund to insure the various state industries and the various political subdivisions against loss to the public buildings and fixtures and permanent contents therein, through fire, lightning, inherent explosion, windstorm, cyclone, and tornado and hail, explosion, riot attending a strike, aircraft, smoke, vehicles, and at the option of the insured the fund shall have the authority to insure against any other risks of direct physical loss. All moneys collected under the provisions of this chapter shall be paid into such fund and shall be used only for the purposes provided for in this chapter.

§ 2. Amendment.) Section 26-24-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-24-04. Public Buildings Insurable Only in Fund.) The public buildings and fixtures and permanent contents therein belonging to the state, the various state industries, and the political subdivisions of the state, shall be insured under the provisions of this chapter. No officer or agent of the state or of any political subdivision thereof, and no person having charge of any public buildings belonging to the state, any state industry, or any political subdivision of the state, shall pay out any public moneys or funds on account of any insurance against loss by fire, lightning, inherent explosion, windstorm, cyclone, tornado and hail, explosion, riot attending a strike, aircraft, smoke, vehicles, or any other risks of direct physical loss, or contract in any manner for, or incur any indebtedness against, the state or any political subdivision thereof on account of any such insurance upon any of the buildings or fixtures and permanent contents therein belonging to the state or any political subdivision thereof, except in the manner provided in this chapter.

§ 3. Amendment.) Section 26-24-08 of the 1965 Supplement to 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 state board of higher education, and each officer, department, 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, clerk, and school district clerk,

***Note:** Section 26-24-08 was also amended by section 1 of chapter 235, and by section 87 of chapter 323, 1967 S.L.

as the case may be, shall report to the commissioner the insurable 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.

§ 4. **Amendment.)** Section 26-24-09 of the 1965 Supplement to 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, explosions, riot attending a strike, aircraft, smoke, vehicles, or any other risks of direct physical loss, all in the manner and subject to the restrictions of the standard fire insurance policy and standard endorsements, 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 the 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.

All public libraries owned by the state or the political subdivisions of the state may, in addition to the coverage provided for in this section, be covered against damage through vandalism. If such coverage cannot be extended to the public libraries situated within this state, such libraries may contract for such coverage with private insurance companies, provided that such coverage meets the recommendations of the insurance code of the American library association.

§ 5. **Amendment.)** Section 26-24-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-24-10. Arbitration.) In case the commissioner and the board or officer having charge of any property are unable to agree upon the insurable value of such property, such value shall be determined by a recognized appraisal company at the expense of the state industry or political subdivision owning such property, if such appraisal company arbitrator meets with the approval of both the commissioner and the board or officer concerned, and in case they are unable to agree on such arbitrator, then the matter shall be submitted to arbitration by a board of arbitration selected as follows:

***Note:** Section 26-24-09 was also amended by section 2 of chapter 235, 1967 S.L.

1. The commissioner and the board or officer in charge of the property each shall select one competent, disinterested contractor, architect, experienced appraiser, appraisal company, or one of the members of such board, and the two so chosen shall select a third person of similar qualification. The three arbitrators shall proceed to determine the insurable value of such property, and the decision of said arbitrators, or a majority of them, shall be given in writing to the commissioner and the board or officials concerned and shall be binding upon both parties. Each party to the dispute shall pay the expense and charges of the arbitrator chosen by him, and the expense and the charges of the third arbitrator shall be borne equally by both parties to the dispute. The decision by such board of arbitration must be made within thirty days from the time the matter is submitted to it. Until the commissioner and board or officer in charge shall have agreed, or in case of dispute, until the decision of the appraisal company or arbitrators, the property shall continue to be valued in the same amount as previously, or in case of new buildings or property, in the amount fixed by the commissioner. The same procedure shall be followed in case of new construction or in any increase or decrease in values.

§ 6. Amendment.) Section 26-24-13 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-24-13. Assessments.) If the reserve balance 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 balance 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

balance to the sum of twelve million dollars shall then be computed and collected on each policy, provided that until the reserve balance 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 sixty percent of the rates set by the fire underwriters inspection bureau unless the reserve balance shall be depleted below three million dollars. In case of a fractional percentage the next higher whole percent shall be used in such computation.

Approved March 14, 1967.

CHAPTER 235

H. B. No. 714

(Bunker, Bier, Allen, Davis, Mueller, Aamoth, Unruh,
(Strinden, Metzger, Lee)

INSURANCE ON PUBLIC BUILDINGS

AN ACT

To amend and reenact sections 26-24-08 and 26-24-09 of the North Dakota Century Code, relating to insurance on public buildings.

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

§ 1. **Amendment.**) Section 26-24-08 of the 1965 Supplement to 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 state board of higher education, and each officer, department, 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, and school district clerk, as the case may be, shall report to the commissioner the sound depreciated value of each public building, with the exception of buildings insured by private insurance companies, and of the fixtures and permanent contents therein, with the exception of fixtures and permanent contents insured by private insurance companies, 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.

***Note:** Section 26-24-08 was also amended by section 3 of chapter 234, and by section 87 of chapter 323, 1967 S.L.

§ 2. Amendment.) Section 26-24-09 of the 1965 Supplement to 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, explosions, 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.

All public buildings owned by the political subdivisions of the state, in lieu of coverage provided for in this section, may at the option of the governing body of the political subdivision be insured on the basis of competitive sealed bids, through the fire and tornado fund which shall be invited to submit a sealed bid or private insurance companies licensed to do business in this state, against damage resulting from hazards, which hazards shall include but shall not be limited to those types of hazards that may be insured against by the fund. The governing body may reject any or all such bids.

All public libraries owned by the state or the political subdivisions of the state may, in addition to the coverage provided for in this section, be covered against damage through vandalism. If such coverage cannot be extended to the public libraries situated within this state, such libraries may contract for such coverage with private insurance companies, provided that such coverage meets the recommendations of the insurance code of the American library association.

Filed March 13, 1967.

***Note:** Section 26-24-09 was also amended by section 4 of chapter 234, 1967 S.L.

Note: Chapter 235, designated as House Bill No. 714, was vetoed by the governor on March 2, 1967. The house of representatives passed House Bill No. 714 over the governor's veto on March 2, 1967, and the senate passed House Bill No. 714 over the governor's veto on March 3, 1967.

CHAPTER 236

S. B. No. 160
(Lips)

WAIVER OF SUBROGATION RIGHTS

AN ACT

Authorizing the commissioner of insurance to waive subrogation rights of the state fire and tornado fund arising out of damage by fire or explosion caused by a contractor during construction of an alteration or addition to a public building insured in said fund.

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

§ 1. Commissioner May Waive Subrogation Rights During Construction.) The commissioner may, in his discretion, waive any right of the fund to recover for damage sustained by any public structure as a result of fire or explosion caused by a contractor, its employees or agents, in the performance of a contract for the alteration of, or the construction of an addition to, a public building insured in the fund.

Approved February 28, 1967.

CHAPTER 237

H. B. No. 845
(Bunker)

LICENSING OF SALES REPRESENTATIVES OF
HOSPITAL SERVICE CONTRACTS

AN ACT

To amend and reenact section 26-26-14 of the North Dakota Century Code, relating to licensing of sales representatives.

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

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

26-26-14. Licensing of Sales Representatives.) The sales representatives of any corporation subject to the provisions of this chapter, who may also act as sales representatives in the sale of nonprofit medical service contracts as defined in chap-

ter 26-27, shall be subject to the laws pertaining to insurance agents as defined in chapter 26-17. 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 three dollars.

Approved March 6, 1967.

CHAPTER 238

H. B. No. 843
(Bunker)

LICENSING OF SALES REPRESENTATIVES OF
NONPROFIT MEDICAL SERVICE CORPORATIONS

AN ACT

To amend and reenact section 26-27-14 of the North Dakota Century Code, relating to licensing of sales representatives.

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

§ 1. **Amendment.)** Section 26-27-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-27-14. Licensing of Sales Representatives.) The sales representatives of any corporation subject to the provisions of this chapter shall be subject to the laws pertaining to insurance agents as defined in chapter 26-17. 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 three dollars.

Approved March 6, 1967.

CHAPTER 239

H. B. No. 844
(Bunker)

LICENSING OF SALES REPRESENTATIVES OF
NONPROFIT DENTAL SERVICE CORPORATIONS

AN ACT

To amend and reenact section 26-27.1-18 of the North Dakota Century Code, relating to licensing of sales representatives.

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

§ 1. Amendment.) Section 26-27.1-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-27.1-18. Licensing of Sales Representatives.) The sales representatives of any corporation subject to the provisions of this chapter shall be subject to the laws pertaining to insurance agents as defined in chapter 26-17 of the North Dakota Century Code. 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 three dollars.

Approved March 6, 1967.

CHAPTER 240

H. B. No. 652
(Dahlen, Opedahl, Lillehaugen, Sandness)

CASUALTY INSURANCE RATE FILINGS

AN ACT

To amend and reenact subsection 4 of section 26-28-04 of the North Dakota Century Code, relating to rate filings.

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

§ 1. Amendment.) Subsection 4 of section 26-28-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. Subject to the exceptions specified in subsection 3 of this section, each filing shall be on file for a waiting period of thirty days before it becomes effective, which period may be extended by the commissioner for an additional period not to exceed fifteen days if he gives written notice within such waiting period to the insurer or rating organization which made the filing that he needs such additional time for the consideration of such filing. Upon written application by such insurer or rating organization, the commissioner may authorize a filing which he has reviewed to become effective before the expiration of the waiting period or any extension thereof. A filing shall be deemed to meet the requirements of this chapter unless disapproved by the commissioner within the waiting period or any extension thereof.

Approved February 27, 1967.

CHAPTER 241

H. B. No. 650

(Dahlen, Opedahl, Lillehaugen, Sandness)

CASUALTY INSURANCE DEVIATIONS

AN ACT

To amend and reenact section 26-28-07 of the North Dakota Century Code, relating to deviations.

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

§ 1. **Amendment.)** Section 26-28-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-28-07. Deviations.) Every member of or subscriber to a rating organization shall adhere to the filings made on its behalf by such organization except that any such insurer may make written application to the commissioner for permission to file a uniform percentage decrease or increase to be applied to the premiums produced by the rating system so filed for a kind of insurance, or for a class of insurance which is found by the commissioner to be a proper rating unit for the application of such uniform percentage decrease or increase, or for a subdivision of a kind of insurance:

1. Comprised of a group of manual classifications which is treated as a separate unit for rate making purposes, or

2. For which separate expense provisions are included in the filings of the rating organization.

Such application shall specify the basis for the modification and shall be accompanied by the data upon which the applicant relies. A copy of the application and data shall be sent simultaneously to such rating organization. The commissioner shall set a time and place for a hearing at which the insurer and such rating organization may be heard and shall give them not less than ten days' written notice thereof. In the event the commissioner is advised by the rating organization that it does not desire a hearing he may, upon the consent of the applicant, waive such hearing. The commissioner shall issue an order permitting the modification for such insurer to be filed if he finds it to be justified and it shall thereupon become effective. He shall issue an order denying such application if he finds that the modification is not justified, or that the resulting premiums would be excessive, inadequate or unfairly discriminatory. Each approved deviation shall remain in force until such approval is withdrawn by the commissioner after notice to the insurer or withdrawn by the insurer with the approval of the commissioner.

Approved February 27, 1967.

CHAPTER 242

H. B. No. 651

(Dahlen, Opedahl, Lillehaugen, Sandness)

FIRE AND PROPERTY INSURANCE RATE FILINGS

AN ACT

To amend and reenact subsection 4 of section 26-29-04 of the North Dakota Century Code, relating to rate filings.

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

§ 1. Amendment.) Subsection 4 of section 26-29-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. Subject to the exception specified in subsection 5 of this section, each filing shall be on file for a waiting period of thirty days before it becomes effective, which period may be extended by the commissioner for an additional period not to exceed fifteen days if he gives written notice within such waiting period to the insurer or rating organization which

made the filing that he needs such additional time for the consideration of such filing. Upon written application by such insurer or rating organization, the commissioner may authorize a filing which he has reviewed to become effective before the expiration of the waiting period or any extension thereof. A filing shall be deemed to meet the requirements of this chapter unless disapproved by the commissioner within the waiting period or any extension thereof.

Approved February 28, 1967.

CHAPTER 243

H. B. No. 653

(Dahlen, Opedahl, Lillehaugen, Sandness)

FIRE AND PROPERTY INSURANCE DEVIATIONS

AN ACT

To amend and reenact section 26-29-07 of the North Dakota Century Code, relating to deviations.

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

§ 1. **Amendment.**) Section 26-29-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-29-07. Deviations.) Every member of or subscriber to a rating organization shall adhere to the filings made on its behalf by such organization except that any such insurer may make written application to the commissioner for permission to file a deviation from the class rates, schedules, rating plans or rules respecting any kind of insurance, or class of risk within a kind of insurance, or combination thereof. Such application shall specify the basis for the modification and a copy thereof shall also be sent simultaneously to such rating organization. The commissioner shall set a time and place for a hearing at which the insurer and such rating organization may be heard and shall give them not less than ten days' written notice thereof. In the event the commissioner is advised by the rating organization that it does not desire a hearing he may, upon the consent of the applicant, waive such hearing. In considering the application for permission to file such deviation the commissioner shall give consideration to the available statistics and the principles for rate making as provided in section 26-29-03. The commissioner shall issue an order permitting the deviation for such insurer to

be filed if he finds it to be justified and it shall thereupon become effective. He shall issue an order denying such application if he finds that the resulting premiums would be excessive, inadequate or unfairly discriminatory. Each approved deviation shall remain in force until such approval is withdrawn by the commissioner after notice to the insurer or withdrawn by the insurer with the approval of the commissioner.

Approved February 27, 1967.

CHAPTER 244

S. B. No. 384
(Longmire)

GOVERNMENTAL SUBDIVISION PERMISSIVE INSURANCE

AN ACT

To amend and reenact sections 39-01-08 and 40-43-07 of the North Dakota Century Code, relating to the permissive purchase of liability insurance by governmental subdivisions and units, providing procedures for insurance coverages to be utilized and providing for waiver of governmental immunity only to the extent of insurance coverage if insurance is purchased.

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

§ 1. **Amendment.**) Section 39-01-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-01-08. State and Political Subdivisions Authorized to Carry Insurance on Vehicles—Waiver of Immunity to Extent Only of Insurance Purchased.)

- (a) The state of North Dakota or any department, agency, bureau, or the employees thereof as well as any county, city, village, or other political subdivision including townships, school and park districts using or operating motor vehicles, are hereby authorized to carry insurance for their own protection of any employee from claims for loss or damage arising out of or by reason of the use or operation of such motor vehicle, whether such vehicle at the time the loss or damage in question occurred was being operated in a governmental undertaking or otherwise. If a premium savings will result therefrom, such policies of insurance may be taken out for more than one year, but in no event beyond a period of five years.

- (b) If insurance is purchased pursuant to subsection (a) above, then the purchaser waives its immunity to suit only to the extent of allowing a determination of liability to the extent of the waiver of the immunity against liability described in subsection (c) below.
- (c) If insurance is purchased pursuant to subsection (a) above, then the purchaser waives its immunity against liability only to the types of its insurance coverage and only to the extent of the policy limits of such coverage.
- (d) If any dispute exists concerning the amount or nature of the insurance coverage, the dispute shall be tried separately before the main trial determining the claims and damages of the claimant.
- (e) This statute confers no right for a claimant to sue the insurer directly.

§ 2. **Amendment.)** Section 40-43-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-43-07. Political Subdivisions Authorized to Carry Liability Insurance—Waiver of Immunity to Extent Only of Insurance Purchased.)

- (a) Any political subdivision of the state may insure against claims of loss, damage, or injury against such political subdivision or any department, agency, or function, or officer, agent, or employee, of such subdivision.
- (b) If a political subdivision insures against a claim, then the political subdivision waives its immunity to suit only to the extent of allowing a determination of liability to the extent of the waiver of the immunity against liability described in subsection (c) below.
- (c) If a political subdivision insures against a claim, then the political subdivision waives its immunity against liability only to the types of its insurance coverage and only to the extent of the policy limits of such coverage.
- (d) If a dispute exists concerning the amount or nature of the insurance coverage, the dispute shall be tried separately before the main trial determining the claims and damages of the claimant.
- (e) This statute confers no right for a claimant to sue the insurer directly.

Approved February 22, 1967.

JUDICIAL BRANCH OF GOVERNMENT

CHAPTER 245

H. B. No. 541
(Brown, Unruh)
(From LRC Study)

SELECTION OF CHIEF JUSTICE OF SUPREME COURT

AN ACT

To amend and reenact sections 27-02-01 and 27-15-05 of the North Dakota Century Code, relating to the selection of the chief justice of the supreme court and the duties of the judges of supreme court and district courts.

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

§ 1. **Amendment.)** Section 27-02-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-02-01. Appointment and Duties of Chief Justice of the Supreme Court.) The judges of the supreme court and district courts shall appoint from the members of the supreme court a chief justice who shall serve for a term of five years or until his term shall expire, whichever shall first occur. The chief justice may resign the office of chief justice without resigning from the office of judge of the supreme court. The chief justice shall preside at all terms of the supreme court. In the absence of the chief justice, the judge having the shortest term to serve shall preside in his stead.

§ 2. **Effective Date of Appointment.)** The judges of the supreme court and district courts shall make their first appointment of a chief justice at their next regular scheduled meeting following the effective date of this Act. The judge having the shortest term to serve shall temporarily act as chief justice until the first meeting of the judges of the supreme court and district courts following the effective date of this Act.

§ 3. **Amendment.)** Section 27-15-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-15-05. Duties.) The judicial council shall make a continuous study of the operation of the judicial system of the

state to the end that procedure may be simplified, business expedited, justice better administered, and shall perform any other duties which may be prescribed by law.

Approved March 2, 1967.

CHAPTER 246

H. B. No. 609

(Aamoth, Sanstead, Unruh, Saugstad)

SALARIES OF SUPREME AND DISTRICT COURT JUDGES

AN ACT

To amend and reenact sections 27-02-02 and 27-05-03 of the North Dakota Century Code, relating to the salaries of judges of the supreme court and district courts.

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

§ 1. **Amendment.)** Section 27-02-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-02-02. Salaries of Judges of Supreme Court.) Each judge of the supreme court shall receive an annual salary of eighteen thousand dollars except the chief justice of the supreme court who shall receive an annual salary of eighteen thousand five hundred dollars.

§ 2. **Amendment.)** Section 27-05-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-05-03. Salaries and Expenses of District Judges.) Each district judge of this state shall receive an annual salary of sixteen thousand dollars and his actual travel expenses, which shall include mileage and subsistence while engaged in the discharge of his official duties outside the county in which his chambers are located. Such salary and expenses shall be payable monthly in the manner provided by law.

Approved February 27, 1967.

CHAPTER 247

S. B. No. 58

(Goldberg, Wenstrom, Sorlie, Coughlin, Decker, Longmire)

NUMBER OF DISTRICT COURT JUDGES

AN ACT

To provide for the appointment of additional district judges and location of chambers and to amend section 27-05-01 of the North Dakota Century Code, relating to judicial districts, the number, composition and number of judges therein.

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

§ 1. **Amendment.)** Section 27-05-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-05-01. Judicial Districts—Number, Composition, Number of Judges.) There shall be six judicial districts in this state composed of the following named counties, respectively, and in each of said districts one or more judges shall be chosen as hereinafter provided.

1. District one shall consist of the counties of Nelson, Grand Forks, Griggs, Steele, Barnes, Traill, and Cass, and shall have five judges;
2. District two shall consist of the counties of Pembina, Walsh, Towner, Cavalier, Rolette, Pierce, Benson, Ramsey, Bottineau, Renville, and McHenry, and shall have three judges;
3. District three shall consist of the counties of Richland, Ransom, Sargent, Dickey, LaMoure, McIntosh, Logan, and Emmons, and shall have two judges;
4. District four shall consist of the counties of Stutsman, Wells, Foster, Eddy, McLean, Sheridan, Burleigh, and Kidder, and shall have three judges;
5. District five shall consist of the counties of Divide, Burke, Ward, Mountrail, Williams, and McKenzie, and shall have three judges;
6. District six shall consist of the counties of Bowman, Adams, Hettinger, Slope, Golden Valley, Mercer, Oliver, Morton, Stark, Grant, Dunn, Billings, and Sioux and shall have three judges.

The governor shall, within thirty days after the effective date of this Act, in order to fill vacancies created by this Act, ap-

point two additional district judges for judicial district one and one additional district judge for judicial district five, all of whom shall hold office until the next general election and until their successors are elected and have qualified. Chambers for the additional judges in judicial district one shall be at Fargo and at Grand Forks and chambers for the additional judge in judicial district five shall be at Minot.

Approved March 6, 1967.

CHAPTER 248

H. B. No. 870

(Boustead, Unruh, Aamoth, Allen)

OPERATION OF FAMILY COURTS

AN ACT

To amend and reenact sections 27-05.1-02, 27-05.1-06, 27-05.1-08, 27-05.1-09, 27-05.1-10, 27-05.1-16, and 27-05.1-18 of the North Dakota Century Code, relating to the operation of family courts. and declaring an emergency.

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

§ 1. **Amendment.)** Section 27-05.1-02 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-05.1-02. Applicability of the Law — Determination by District Judge.) The family court shall be established as a division of the district court, having all and the same powers as the district court, only in a county having a population exceeding ten thousand inhabitants and in which a district judge whose chambers are in such a county determines the social conditions and the number of domestic relations cases in the courts in such a county within his district renders the establishment of such court and procedures as herein provided necessary to the full and proper consideration of such cases and the effectuation of the purposes of this chapter. The family court shall thereafter be established or thereafter terminated by order of the district judge and each district court judge within said district shall be a judge of said family court.

§ 2. **Amendment.)** Section 27-05.1-06 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-05.1-06. Rules of Procedure in the Institution of Actions for Divorce, or Separation — Residence Requirement.) From and after the effective date of this chapter, all civil actions instituted in divorce or separation cases venued in a county wherein a family court has been established and in which one of the parties resides, may not be filed or instituted unless either family court jurisdiction in such a case has been waived by court order or there has first been filed in the office of the clerk of the district court wherein the action is to be brought, a petition in substantially the following form:

1. The petition shall be captioned substantially as follows:

District Court of the State of North Dakota

For the County of.....

Upon petition of

 and concerning
 and

Petition
 (Under the Family Court Act)

Respondent

To the Family Court:

2. The petition shall:
 - a. Allege that a controversy exists between the spouses.
 - b. State the name and age of each minor child of the petitioner and spouse.
 - c. State the name and address of the petitioner, or the names and addresses of the petitioners, and the names and address of counsel, if any.
 - d. If the petition is presented by one spouse only, name the other spouse as a respondent, and state the address of that spouse.
 - e. State such other information as the court may by rule require.

§ 3. Amendment.) Section 27-05.1-08 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-05.1-08. Exemption from Fees.) No fee shall be charged for the filing of the petition in a family court, nor shall any fee be charged for the performance of any service or duty under the provisions of this chapter.

§ 4. Amendment.) Section 27-05.1-09 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-05.1-09. Time and Place of Hearing on Petition.) The court may fix a time and place for hearing on the petition and issue its order setting forth notice of the filing of the petition and the time and place of the hearing and requiring the parties to appear at the time and place stated in the order. The court may at any time issue such orders concerning the custody and care of the children of the marriage and restraining orders as it may deem necessary under the provisions of chapters 14-05 and 14-06 of the North Dakota Century Code.

§ 5. Amendment.) Section 27-05.1-10 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-05.1-10. Referral to Family Counselor.) At the time of the hearing on the petition or any time after a petition has been filed, without ordering a hearing, the court may refer the parties, by court order, to the court's family court counselor and issue such further orders as it may deem necessary under the provisions of chapters 14-05 and 14-06 of the North Dakota Century Code. The family court counselor shall set a time and place in the county for a conference or series of conferences to attempt to effect a reconciliation of the spouses or an amicable adjustment or settlement of the issues of the controversy and, if necessary, issue citations to the spouses and witnesses requiring them to appear at the time and place stated in the citation.

§ 6. Amendment.) Section 27-05.1-16 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-05.1-16. Juvenile Commissioners' and Welfare Board Assistance.) The juvenile commissioners and county welfare boards in every county in which a family court is established shall give such assistance to the family court as the court may request to carry out the purposes of this chapter and for that purpose may exercise all the powers pertaining to their offices granted or imposed pursuant to the laws of this state. The court may utilize the services, personnel, and facilities of the state and county welfare boards in effectuating the purposes of this Act and may appoint personnel thereof as family court counselors.

§ 7. Amendment.) Section 27-05.1-18 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-05.1-18. Stay of Further Proceedings for Divorce, or Separation.) During a period beginning upon the filing of the petition and continuing until ninety days after the date of the filing of the petition, neither spouse shall file any action for divorce or separation. If, however, after the expiration of such time, the controversy between the spouses has not been resolved, or within any time during such ninety-day period or thereafter the court has issued and filed an order terminating family court jurisdiction, either spouse may institute proceedings for divorce or separation under the provisions of chapters 14-03 and 14-05 of the North Dakota Century Code. The pendency of an action for divorce or separation shall not operate as a bar to the instituting of further proceedings under this chapter, with the consent of both of the parties to the action.

§ 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 14, 1967.

CHAPTER 249

S. B. No. 123

(Ringsak, Meschke, Nething)

SALARY AND EXPENSES OF COURT REPORTERS

AN ACT

To amend and reenact section 27-06-02 of the 1965 Supplement to the North Dakota Century Code, relating to salary and expenses of court reporter.

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

§ 1. Amendment.) Section 27-06-02 of the 1965 Supplement to 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 who has been employed in North Dakota as a court reporter for five years or more shall receive a salary not to exceed eight thousand two hundred dollars per annum. Each court reporter who has not been employed in North Dakota as a court reporter for five years or more shall receive a base salary of not to exceed seven thousand dollars per annum, and additional annual compensation of two hundred

and forty dollars for each year he has been employed in North Dakota as a court reporter, such base salary and additional annual compensation not to exceed eight thousand two hundred dollars per annum. The salary of a court reporter shall be 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.

Approved February 25, 1967.

CHAPTER 250

S. B. No. 140

(Ringsak)

FEES FOR TRANSCRIPTS

AN ACT

To amend and reenact section 27-06-08 of the 1965 Supplement to the North Dakota Century Code, relating to fees for transcripts.

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

§ 1. **Amendment.)** Section 27-06-08 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-06-08. Fees for Transcripts.) For the preparation of a transcript, a court reporter shall be entitled to receive compensation at the rate of sixty cents per page for the original, twenty cents per page for the first copy, and ten cents per page for each additional copy. A page shall consist of not less than twenty-five lines written on paper at least eight and one-half inches by eleven inches in size, prepared for binding on the left side, with margins of not more than one and three-fourths inch on the left nor three-eighths inch on the right. Type shall be standard pica with ten letters to the inch. Questions and answers shall each begin a new line. Indentations for speakers or paragraphs shall not be more than ten spaces from the left margin. Pages shall be numbered consecutively. Transcripts shall be indexed as to witnesses and exhibits. Such compensation shall be paid by the party requesting the transcript or by the county chargeable with the costs of the action, when the transcript is ordered prepared, by the judge, at such county's expense.

Approved February 25, 1967.

CHAPTER 251

H. B. No. 708

(Lee, Ferguson, Stone, Haugland, Eagles)

RELIEF FROM JURY DUTY

AN ACT

To repeal section 27-09-04 of the North Dakota Century Code, relating to when female persons shall be excused from jury service.

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

§ 1. Repeal.) Section 27-09-04 of the North Dakota Century Code is hereby repealed.

Approved February 24, 1967.

CHAPTER 252

H. B. No. 686

(R. Peterson(1), Aafedt, Aas)

COMPENSATION OF JUVENILE COMMISSIONERS

AN ACT

To amend and reenact section 27-16-03 of the North Dakota Century Code, relating to juvenile commissioners and compensation therefor.

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

§ 1. Amendment.) Section 27-16-03 of the 1965 Supplement to 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 ten 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 in-

curred 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 10, 1967.

CHAPTER 253

H. B. No. 563
(Wagner, Burke)

CONFIDENTIALITY OF JUVENILE COURT PROCEEDINGS

AN ACT

To amend and reenact sections 27-16-06, 27-16-18, and 27-16-31 of the North Dakota Century Code, relating to the confidentiality of juvenile court records and hearings and the publication of names of certain juvenile offenders.

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

§ 1. Amendment.) Section 27-16-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-16-06. Clerk of Juvenile Court—Records—Confidential.) The clerk of the district court shall be the clerk of the juvenile court. He shall file all papers, including the findings and final orders in proceedings had under this chapter, and shall note the date of such filing on the papers. Final orders shall be entered in a book known as the "juvenile court record", which shall be kept exclusively for that purpose. The records and papers shall be subject to examination by said clerk, the judges of the court, and the juvenile commissioner. Others may examine such records and papers only upon the written order of one of the district judges, except that juvenile court records relating solely to offenders brought before the court for violation of state laws or municipal ordinances governing the operation of motor vehicles shall be open to public inspection.

§ 2. Amendment.) Section 27-16-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-16-18. Hearings.) On any hearing within the provisions of this chapter, the court may receive the report of the juvenile commissioner, made orally or in writing, of testimony taken before him. Such report may be received in evidence and be considered by the court with such other evidence as may be presented at the hearing. If the testimony taken by the juvenile commissioner has been taken under oath by a competent reporter it shall be unnecessary to have such testimony given by the same witness at such hearing. The court may conduct the hearing in an informal manner. Such hearing shall be reported as in a civil case. The general public shall be excluded from all hearings except those involving a violation of state laws or municipal ordinances governing the operation of motor vehicles, and only such persons admitted as have a direct interest in the case. The court shall hear and determine all cases without a jury.

§ 3. Amendment.) Section 27-16-31 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-16-31. Publication of Name of Child.) No publication of the name of any child under the jurisdiction of the juvenile court shall be made by any news media except as contained in process of the court and published by order of the court and except that the names of children arrested or brought before the court for violation of state laws or municipal ordinances governing the operation for motor vehicles may be published. Any violation of the provisions of this section shall subject the news reporter and publisher or manager of any news media so violating the same to be cited for civil contempt and to be punished therefor.

Approved February 22, 1967.

JUDICIAL PROCEDURE, CIVIL RULES OF COURT

CHAPTER 254

S. B. No. 303
(Holand, Wilhite)

LIMITATION ON ACTIONS FOR DESIGN OF IMPROVEMENTS ON REAL PROPERTY

AN ACT

To provide a period of limitation within which time claims for damages may be brought against persons performing or furnishing the design, planning, supervision or observation of construction of improvements on real property.

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

§ 1. Limitation of Action.) No action, whether in contract (oral or written, sealed or unsealed), in tort or otherwise, to recover damages

1. For any deficiency in the design, planning, supervision or observation of construction or construction of an improvement to real property;
2. For injury to property, real or personal, arising out of any such deficiency; or
3. For injury to the person or for wrongful death arising out of any such deficiency,

shall be brought against any person performing or furnishing the design, planning, supervision or observation of construction, or construction of such an improvement more than ten years after substantial completion of such an improvement.

§ 2. Extension of Limitation.) Notwithstanding the provisions of section 1 of this Act, in the case of such an injury to property or the person or such an injury causing wrongful death, which injury occurred during the tenth year after such substantial completion, an action in tort to recover damages for such an injury or wrongful death may be brought within two years after the date on which such injury occurred (irrespective of the date of death) but in no event may such an action be brought more than twelve years after the substantial completion of construction of such an improvement.

Nothing in this Act shall be construed as extending the period prescribed by the laws of this state for the bringing of any action.

§ 3. Limitation Not Applicable to Certain Parties.) The limitation prescribed by this Act shall not be asserted by way of defense by any person in actual possession or the control, as owner, tenant, or otherwise, of such an improvement at the time any deficiency in such an improvement constitutes the proximate cause of the injury or death for which it is proposed to bring an action.

§ 4. Definition of Term "Person".) As used in this Act, the term "person" shall mean an individual, corporation, partnership, business trust, unincorporated organization, association, or joint stock company.

Approved March 14, 1967.

CHAPTER 255

S. B. No. 396
(Wilhite)

LIABILITY OF SHERIFF IN AMERCEMENT PROCEEDINGS

AN ACT

To amend and reenact section 28-21-19 of the North Dakota Century Code, relating to a reduction of liability of the sheriff in amercement proceedings.

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

§ 1. Amendment.) Section 28-21-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

28-21-19. Amercement of Sheriff.) If any sheriff or other officer shall refuse or neglect to execute any writ of execution directed to him which has come to his hands, or to sell any personal or real property, or to return any writ of execution to the proper court, on or before the return day, or on demand to pay over to the judgment creditor or his agent or attorney of record all moneys by him collected or received for the use of said party at my time after collecting or receiving the same, except as otherwise provided, or on demand made by the judgment debtor or his agent or attorney of record, to pay all surplus received from any sale, such sheriff or other officer, on motion in court and two days' notice thereof in writing,

shall be amerced in an account not to exceed that which would have been realized by the judgment creditor or judgment debtor, plus reasonable attorney's fees, plus two hundred dollars.

Approved March 14, 1967.

JUDICIAL PROCEDURE, CRIMINAL

CHAPTER 256

H. B. No. 674
(Kelsch, Bullis, Kuehn)

MULTIPLE COUNT INDICTMENTS, CHARGES, AND MOTIONS

AN ACT

To create and enact sections 29-01-06.1 and 29-11-10.1 of the North Dakota Century Code, relating to the trial of a defendant under a multiple count indictment or information, and to amend and reenact section 29-11-10, and subsections 1 and 2 of section 29-14-04 of the North Dakota Century Code, relating to charges of offenses and grounds for motion to quash.

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

§ 1.) Section 29-01-06.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

29-01-06.1. Rights of Defendant—Exception.) When the defendant is charged with a crime under a multiple count indictment or information as allowed by section 29-11-10.1, he may be tried on all counts in any one of the counties in which one of the offenses was committed.

§2. **Amendment.)** Section 29-11-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

29-11-10. Charging the Offense.) The indictment or information may charge, and is valid and sufficient if it charges, the offense or offenses for which the defendant is being prosecuted in one or more of the following ways:

1. By using the name given to the offense or offenses by a statute or statutes and sufficient particulars to give the court and the defendant notice of the offense or offenses intended to be charged;
2. By stating so much of the definition of the offense or offenses in terms of the statute or statutes defining the offense or offenses, or in terms of substantially the same meaning, as is sufficient to give the court and the defendant notice of the offense or offenses which are intended to be charged.

The indictment or information may refer to a section or subsection of any statute or statutes creating the offense or offenses charged therein and, in determining the validity or sufficiency of such indictment or information, regard shall be had to such reference.

§ 3.) Section 29-11-10.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

29-11-10.1. Charging Crime in Separate Counts and Consolidating Indictments and Information.) When there are several charges for the same act or transaction, constituting different crimes or the same crime alleged to have been committed in a different manner or by different means, or for two or more acts or transactions connected together or constituting parts of a common scheme or plan, or for two or more acts or transactions constituting crimes of the same or a similar character, instead of having several indictments or informations, the whole may be joined in one indictment or information in separate counts, and if two or more indictments or informations are found in such cases, the court may order them to be consolidated; provided, however, that where the charges involve two or more acts or transactions constituting crimes of the same or a similar character which are neither connected together nor parts of a common scheme or plan, the court, in the interest of justice and for good cause shown, may, in its discretion, order that the different charges set forth in the indictment or information or indictments or informations, be tried separately. The joinder or consolidation of indictments or informations shall not be prevented by the fact that different penalties may be imposed for conviction upon the several crimes charged.

§ 4. **Amendment.)** Subsections 1 and 2 of section 29-14-04 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

1. In either an indictment or information:
 - a. The facts stated therein do not constitute a public offense;
 - b. The court has no jurisdiction of the offense or offenses charged therein;
 - c. It does not conform substantially to the requirements of this title;
 - d. It contains a statement of matter which if true would constitute a legal justification of or excuse for the offense or offenses charged, or other legal bar to the prosecution;

- e. The court has ordered a bill of particulars under the provisions of section 29-11-11 and the state's attorney has failed to furnish a sufficient bill;
 - f. It appears from the bill of particulars furnished under the provisions of section 29-11-11 that the particulars stated do not constitute the offense or offenses charged in the indictment or information, or that the defendant did not commit that offense or those offenses, or that a prosecution for that offense or those offenses is barred by the statute of limitations. If the state's attorney furnishes another bill of particulars which states the particulars so that it appears that they constitute the offense or offenses charged and that the offense or offenses were committed by the defendant and that it is not barred by the statute of limitations, the motion shall be overruled;
 - g. The defendant has been pardoned of the offense or offenses charged;
2. In an indictment:
- a. It is not found, endorsed, presented, nor filed as prescribed by this title;
 - b. The names of the witnesses examined before the grand jury are not inserted at the foot of the indictment nor otherwise exhibited thereon;
 - c. There was ground for a challenge to the panel or to an individual grand juror and the defendant had not been held to answer at the time the grand jurors were sworn;
 - d. A person other than a grand juror was present while the grand jurors were deliberating or voting, otherwise than as provided in section 29-10-26;
 - e. The requisite number of grand jurors did not concur in finding the indictment;
 - f. The grand jurors had no authority to inquire into the offense or offenses charged;
 - g. If the defendant had not been held to answer before the finding of the indictment, any ground which would have been good ground for challenge either to the panel or to any individual grand juror;

Approved February 28, 1967.

CHAPTER 257

S. B. No. 131
(Chesrown, Longmire)

RESISTING ARREST

AN ACT

To create and enact section 29-06-13.1 of the North Dakota Century Code, relating to resistance to a peace officer in the performance of his duty.

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

§ 1.) Section 29-06-13.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

29-06-13.1. Resisting Peace Officer.) Any person who shall knowingly resist, obstruct or abuse a sheriff or peace officer in the execution of his office, or who shall knowingly resist an arrest by such official shall be guilty of a misdemeanor.

Approved March 1, 1967.

CHAPTER 258

H. B. No. 748
(Kelsch)

ARRESTS WITHOUT WARRANT

AN ACT

To amend and reenact section 29-06-15 of the North Dakota Century Code, relating to arrests without a warrant.

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

§ 1. **Amendment.)** Section 29-06-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

29-06-15. Arrest Without Warrant.) A peace officer, without a warrant, may arrest a person:

1. For a public offense, committed or attempted in his presence; and for the purpose of this subsection a crime shall be deemed committed or attempted in his presence when what the officer observes through his

senses reasonably indicates to him that a crime was in fact committed or attempted in his presence by the person arrested.

2. When the person arrested has committed a felony, although not in his presence.
3. When a felony in fact has been committed, and he has reasonable cause to believe the person arrested to have committed it.
4. On a charge, made upon reasonable cause, of the commission of a felony by the party arrested.
5. For such public offenses, not classified as felonies and not committed in his presence as provided for under section 29-06-15.1.

Approved February 24, 1967.

CHAPTER 259

S. B. No. 233
(Longmire)

MAGISTRATE'S DUTY AS TO DEFENDANTS

AN ACT

To amend and reenact section 29-07-01 of the North Dakota Century Code, relating to magistrate's duty and instructing defendant as to rights, provide for appointment of counsel for indigents and making provision for payment of such expenses, and to repeal sections 29-01-27 and 27-08-31 of the North Dakota Century Code.

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

§ 1. **Amendment.)** Section 29-07-01 of the North Dakota Century Code is amended and reenacted to read as follows:

29-07-01. Magistrate's Duty—Testimony May Be Taken.) When the defendant is brought before a magistrate upon an arrest, either with or without a warrant, on a charge of having committed a public offense which the magistrate is without authority to try and determine, the magistrate immediately shall inform him:

1. Of the charge against him;
2. Of his right to remain silent;
3. Of his right to the aid of counsel before answering any questions and until such times as he is released or finally convicted;

4. Of his right to have his legal services provided for at public expense to the extent he is unable to pay for his own defense without undue hardship; and
5. Of his right to a preliminary examination and his right to waive same.

§ 2.) Section 29-07-01.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

29-07-01.1. Appointment of Counsel for Indigents—Payment of Expenses.) The magistrate before whom a defendant charged with the violation of state criminal law is brought may appoint counsel from a list prepared under the direction of the senior district judge in his district and in the manner prescribed by him. The determination of the degree of need of the defendant shall be deferred until his first appearance before the trial judge, and the court may require the defendant to answer all inquiries under oath concerning his need for appointment of counsel. Thereafter, the court concerned shall determine, with respect to each proceeding, whether the defendant is a needy person. The appropriate judge may appoint counsel for a needy person at any time or for any proceeding arising out of a criminal case if reasonable.

Lawyers appointed to represent needy persons shall be compensated at a reasonable rate to be determined by the court. Expenses necessary for the adequate defense of a needy person, when approved by the judge, shall be paid by the county wherein the alleged offense took place. A defendant with appointed counsel shall pay to the county such sums as the court shall direct. The state's attorney shall seek recovery of any such sums any time he determines the person for whom counsel was appointed may have funds to repay the county within six years of the date such amount was paid on his behalf.

§ 3. **Repeal.)** Sections 29-01-27 and 27-08-31 of the North Dakota Century Code are hereby repealed.

Approved March 14, 1967.

CHAPTER 260

S. B. No. 124

(Nething, Hofstrand, Morgan)

EXECUTION OF WARRANT—USE OF FORCE

AN ACT

To amend and reenact section 29-29-08 of the North Dakota Century Code, relating to the use of force in the execution of a search warrant.

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

§ 1. **Amendment.)** Section 29-29-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

29-29-08. Execution of Warrant—Use of Force.) An officer directed to serve a search warrant may break open an outer or inner door or window of a house, or any part of the house, or anything therein, to execute the warrant, (a) if, after notice of his authority and purpose he be refused admittance, or (b) without notice of his authority and purpose if a district judge issuing the warrant has inserted a direction therein that the officer executing it shall not be required to give such notice. The district judge may so direct only upon written petition and proof under oath, to his satisfaction, that the property sought may be easily and quickly destroyed or disposed of, or that danger to the life or limb of the officer or another may result, if such notice were to be given.

Approved March 1, 1967.

JUDICIAL PROCEDURE, PROBATE

CHAPTER 261

S. B. No. 67
(Ringsak, Holand, Longmire)

INVESTMENT OF TRUST FUNDS

AN ACT

To amend and reenact sections 30-13-22 and 30-14-19 of the North Dakota Century Code, relating to the investment of funds by executors, administrators, and guardians.

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

§ 1. Amendment.) Section 30-13-22 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

30-13-22. Investment of Trust Funds Only on Order of Court.) No executor or administrator shall invest trust funds of the estate unless authorized to do so by an order made and entered in the county court of the county in which such executor or administrator was appointed, except that he may invest without liability in bonds of the state of North Dakota, bonds of the United States of America, commercial banks to the extent that certificates of deposit or savings accounts may be used which are fully insured and guaranteed by the United States or an instrumentality or agency thereof and in investments classified as legal investments under section 21-10-07 of the North Dakota Century Code.

§ 2. Amendment.) Section 30-14-19 of the 1965 Supplement to 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, bonds of the United States of America, commercial banks to the extent that certificates of deposit or savings accounts may be used which are fully insured and guaranteed by the United States or an instrumentality or agency thereof and in investments classified as legal investments under section 21-10-07 of the North Dakota Century

Code, 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 6-05-15.1 of the North Dakota Century Code without first obtaining an order from the county court.

Approved March 6, 1967.

CHAPTER 262

S. B. No. 86

(Holand, Freed, Nething, Ringsak, Longmire, Chesrown,)
(Goldberg, Meschke)

PETITION FOR LEGACY

AN ACT

To amend and reenact sections 30-21-01 and 30-21-03 of the 1965 Supplement to the North Dakota Century Code, relating to a petition for a legacy or share by an heir, devisee, or legatee of an estate and the requirement of a bond and payment of costs.

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

§ 1. Amendment.) Section 30-21-01 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

30-21-01. Petition for Legacy or Share—Hearing.) At any time after the hearing on claims presented against an estate, the executor or administrator, or any heir, devisee, or legatee may present his petition to the court for distribution of a legacy, devise or share of the estate or any portion or portions thereof. In such case, a hearing must be held upon the petition after the citation of all parties interested.

If the executor or administrator is not the applicant, the costs must be paid by the applicant, or if there is more than one applicant, must be apportioned among them.

If the application is made by the executor or administrator, the cost of the proceeding must be paid by the estate, excepting that when a partition is necessary the cost of the partition must be apportioned among the parties interested in the partition.

§ 2. Amendment.) Section 30-21-03 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

30-21-03. Petition May Be Allowed—Bond Required—Partition—Costs.) If at a hearing upon a petition for the payment of a legacy, devise or share of an estate or any portion or portions thereof, it appears that the share may be allowed without loss to the creditors of the estate, the court must make an order in conformity with the prayer of the applicant, requiring:

1. Each heir, legatee, or devisee obtaining such order, before receiving his share or any portion thereof, to execute and deliver to the executor or administrator a bond in such sum as shall be designated by the county judge, with sureties to be approved by the judge, payable to the executor or administrator, and conditioned for the payment, whenever required, of his proportion of the debts due from the estate, not exceeding the value or amount of the legacy or portion of the estate to which he is entitled;
2. The executor or administrator to deliver to the heir, legatee, or devisee the whole portion of the estate to which he may be entitled, or only a part thereof, designating it.

The requirement of a bond imposed by subsection 1 of this section may be dispensed with at the discretion of the court, whenever there are no debts or taxes due from the estate. If in the execution of the order a partition between two or more of the parties interested is necessary, it must be made in the manner prescribed in this chapter. The costs of such proceeding shall be paid by the applicant, or if there is more than one, they shall be apportioned equally among all of the applicants.

Approved February 4, 1967.

CHAPTER 263

S. B. No. 357
(Holand)

JUDICIAL DISTRIBUTION OF ESTATE

AN ACT

To amend and reenact section 30-21-05 of the North Dakota Century Code, relating to the judicial distribution of an estate.

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

§ 1. Amendment.) Section 30-21-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

30-21-05. Court Distributes Estate.) If a petition for distribution has been made at the time of filing the final account, the court, upon expiration of the time for appeal from the decree allowing and confirming the final account or upon all persons interested in said estate filing a waiver of their right to appeal from the order allowing the final account, shall enter a final decree of distribution without further notice. In the event that a petition for distribution was not filed with the final account, such petition may be made by the executor or administrator, or any heir, legatee or devisee, at any subsequent time, and the court thereupon, after notice, and upon the expiration of the time for appeal from the decree allowing the final account or upon all persons interested in said estate filing a waiver of their right to appeal from the order allowing the final account, must proceed to distribute the residue of the estate. The waiver provided for in this section must be signed by the person executing the same in the presence of two witnesses who must sign the same as witnesses thereto or he must acknowledge the execution of the same before some officer qualified to take acknowledgments. The several judges of the county courts of the state of North Dakota shall, prior to entering a final decree of distribution of an estate, certify to their respective county treasurers the amount of the estate tax to be distributed to each of the appropriate political subdivisions entitled to a portion of the estate tax under the provisions of section 57-37-24 of the North Dakota Century Code. For the purposes of determining the appropriate amount to be distributed to each of the political subdivisions entitled to a share of the estate tax under the provisions of section 57-37-24 of the North Dakota Century

Code, county judges shall calculate the amounts in accordance with the procedures established in section 57-37-24 of the North Dakota Century Code.

Approved March 6, 1967.

CHAPTER 264

S. B. No. 192

(Chesrown, Longmire, Holand, Meschke)

UNIFORM ESTATE TAX APPORTIONMENT ACT

AN ACT

To provide a uniform method of apportioning federal and state estate taxes among persons sharing in the distribution of the estate of a decedent, to amend and reenact section 57-37-14 of the North Dakota Century Code, to amend and reenact subsections 3 and 4 of section 57-37-23 of the 1965 Supplement to the North Dakota Century Code and to amend and reenact subsection 1 of section 57-37-27 of the 1965 Supplement to the North Dakota Century Code, relating to the determination and apportionment of estate taxes among beneficiaries of a decedent's estate.

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

§ 1. Definitions.) In this Act:

1. "Estate" means the gross estate of a decedent as determined for the purpose of federal estate tax and the estate tax payable to this state.

2. "Person" means any individual, partnership, association, joint stock company, corporation, government, political subdivision, governmental agency, or local governmental agency.

3. "Person interested in the estate" means any person entitled to receive, or who has received, from a decedent or by reason of the death of a decedent any property or interest therein included in the decedent's estate. It includes a personal representative, guardian, and trustee.

4. "State" means any state, territory, or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

5. "Tax" means the federal estate tax and the estate tax payable to this state and interest and penalties imposed in addition to the tax.

6. "Fiduciary" means executor, administrator of any description, and trustee.

§ 2. Apportionment.) Unless the will otherwise provides, the tax shall be apportioned among all persons interested in the estate. The apportionment shall be made in the proportion that the value of the interest of each person interested in the estate bears to the total value of the interests of all persons interested in the estate. The values used in determining the tax shall be used for that purpose.

§ 3. Procedure for Determining Apportionment.) 1. The county court having jurisdiction over the administration of the estate of a decedent shall determine the apportionment of the tax. If there are no probate proceedings, the county court of the county wherein the decedent was domiciled at death upon the application of the person required to pay the tax shall determine the apportionment of the tax.

2. If the county court finds that it is inequitable to apportion interest and penalties in the manner provided in section 2, because of special circumstances, it may direct apportionment thereof in the manner it finds equitable.

3. If the county court finds that the assessment of penalties and interest assessed in relation to the tax is due and delay caused by the negligence of the fiduciary, the court may charge the fiduciary with the amount of the assessed penalties and interest.

4. In any suit or judicial proceeding to recover from any person interested in the estate the amount of the tax apportioned to the person in accordance with this Act, the determination of the county court in respect thereto shall be prima facie correct.

§ 4. Method of Proration.) 1. The fiduciary or other person in possession of the property of the decedent required to pay the tax may withhold from any property distributable to any person interested in the estate, upon its distribution to him, the amount of tax attributable to his interest. If the property in possession of the fiduciary or other person required to pay the tax and distributable to any person interested in the estate is insufficient to satisfy the proportionate amount of the tax determined to be due from the person, the fiduciary or other person required to pay the tax may recover the deficiency from the person interested in the estate. If the property is not in the possession of the fiduciary or other person required to pay the tax, the fiduciary or other person required to pay the tax may recover from any person interested in the estate the amount of the tax apportioned to the person in accordance with this Act.

2. If property held by the fiduciary is distributed prior to final apportionment of the tax, the distributee shall provide

a bond or other security for the apportionment liability in the form and amount prescribed by the fiduciary, with the approval of the county court having jurisdiction of the administration of the estate.

§ 5. Allowance for Exemptions, Deductions and Credits.)

1. In making an apportionment, allowances shall be made for any exemptions granted and for any deductions and credits allowed by the law imposing the tax.

2. Any exemption or deduction allowed by reason of the relationship of any person to the decedent or by reason of the purposes of the gift shall inure to the benefit of the person bearing such relationship or receiving the gift; except that when an interest is subject to a prior present interest which is not allowable as a deduction, the tax apportionable against the present interest shall be paid from principal.

3. Any deduction for property previously taxed and any credit for gift taxes or death taxes of a foreign country paid by the decedent or his estate shall inure to the proportionate benefit of all persons liable to apportionment.

4. Any credit for inheritance, succession or estate taxes or taxes in the nature thereof in respect to property or interests includible in the estate shall inure to the benefit of the persons or interests chargeable with the payment thereof to the extent that, or in proportion as the credit reduces the tax.

5. To the extent that property passing to or in trust for a surviving spouse or any charitable, public, or similar gift or bequest does not constitute an allowable deduction for purposes of the tax solely by reason of an inheritance tax or other death tax imposed upon and deductible from the property, the property shall not be included in the computation provided for in section 2 hereof, and to that extent no apportionment shall be made against the property. The sentence immediately preceding shall not apply to any case where the result will be to deprive the estate of a deduction otherwise allowable under section 2053(d) of the Internal Revenue Code of 1954 of the United States, relating to deduction for state death taxes on transfers for public, charitable or religious uses.

§ 6. No Apportionment Between Temporary and Remainder

Interests.) No interest in income and no estate for years or for life or other temporary interest in any property or fund shall be subject to apportionment as between the temporary interest and the remainder. The tax on the temporary interest and the tax, if any, on the remainder shall be chargeable against the corpus of the property or funds subject to the temporary interest and remainder.

§ 7. Exoneration of Fiduciary.) Neither the fiduciary nor other person required to pay the tax shall be under any duty to institute any suit or proceeding to recover from any person interested in the estate the amount of the tax apportioned to the person until the expiration of the three months next following final determination of the tax. A fiduciary or other person required to pay the tax who institutes the suit or proceeding within a reasonable time after the three months' period shall not be subject to any liability or surcharge because any portion of the tax apportioned to any person interested in the estate was collectible at a time following the death of the decedent but thereafter became uncollectible. If the fiduciary or other person required to pay the tax cannot collect from any person interested in the estate the amount of the tax apportioned to the person, the amount not recoverable shall be equitably apportioned among the other persons interested in the estate, who are subject to apportionment.

§ 8. Action by Nonresident, Reciprocity.) 1. Subject to the conditions in subsection 2 of this section a fiduciary acting in another state or a person required to pay the tax residing in another state may institute an action in the courts of this state and may recover a proportionate amount of the federal estate tax, of an estate tax payable to another state or of a death duty due by a decedent's estate to another state, from a person interested in the estate who is either residing in this state or who owns property in this state subject to attachment or execution. For the purposes of the action the determination of apportionment by the court having jurisdiction of the administration of the decedent's estate in the other state shall be prima facie correct.

2. The provisions of subsection 1 of this section shall apply only:

- a. If such other state affords a remedy substantially similar to that afforded in subsection 1 hereof;
- b. With respect to federal estate tax, if apportionment thereof is authorized by Congress.

§ 9. Uniformity of Interpretation.) This Act shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it.

§ 10. Short Title.) This Act may be cited as the Uniform Estate Tax Apportionment Act.

§ 11. Severability.) If any provisions of this Act or the application thereof to any person or circumstance is held invalid, the 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 severable.

§ 12. Amendment.) Section 57-37-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-37-14. County Court to Assess Tax and Apportion Federal and State Estate Taxes.) 1. The county court having jurisdiction over any estate shall assess the estate tax payable thereon before the final decree of distribution of the estate has been made.

2. The county court having jurisdiction over any estate shall apportion the federal and state estate taxes among all persons interested in the estate in the manner provided by the Uniform Estate Tax Apportionment Act unless the decedent's will provides otherwise.

§ 13. Amendment.) Subsections 3 and 4 of section 57-37-23 of the 1965 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

3. The beneficiary shall be personally liable for the tax on such real estate, as well as the executor, administrator, or trustee, and if the executor, administrator, or trustee pays such tax, he shall have the right to recover the tax from the beneficiary in accordance with the provisions of the Uniform Estate Tax Apportionment Act.

4. Any unpaid taxes imposed by this chapter shall be and remain a lien upon the property transferred, and upon all property acquired by the executor, administrator, or trustee in substitution therefor, for a period of ten years from the date of death of the decedent.

§ 14. Amendment.) Subsection 1 of section 57-37-27 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. In the absence of administration in this state upon the estate of a nonresident, the tax commissioner, at the request of an executor or administrator duly appointed and qualified in the state of the decedent's domicile, or of a grantee under a conveyance made during the grantor's lifetime, and upon satisfactory evidence furnished by such executor, administrator, or grantee, or otherwise, may determine whether or not any property of said decedent within this state is subject to taxation under the provisions of this chapter, and if so, may determine the amount of the tax payable and may adjust the same with such executor, administrator, or grantee. For that purpose the tax commissioner may appoint an appraiser to

appraise said property and the expenses of such appraisal shall be charged against such property in addition to the taxes. The tax commissioner's certificate as to the amount of such tax and his receipt for the amount therein certified may be filed in the probate office in the county where the property is located, and when so filed shall be conclusive evidence of the payment of the tax upon the said property. Whenever in such case the tax is not adjusted within four months after the death of the decedent, the proper county court, upon application of the tax commissioner, shall appoint an administrator in this state. Where the tax commissioner determines the estate tax, as provided in this subsection, the tax commissioner shall apportion the federal and state estate taxes among all persons interested in the estate in the manner provided by the Uniform Estate Tax Apportionment Act unless the decedent's will provided otherwise.

§ 15. Time of Application of Act.) This Act shall apply to taxes due on account of the death of decedents dying after June 30, 1967.

Approved March 14, 1967.

JUDICIAL PROOF

CHAPTER 265

S. B. No. 120
(Nething, Kautzmann, Butler)

PRIVILEGE AGAINST SELF-INCRIMINATION

AN ACT

To amend and reenact section 31-01-09 of the North Dakota Century Code, relating to the privilege against self-incrimination.

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

§ 1. **Amendment.)** Section 31-01-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

31-01-09. Privilege Against Self-Incrimination — Grant of Immunity.) No person shall be compelled to be a witness against himself in a criminal action. Notwithstanding any provision of law to the contrary, in any criminal proceedings before a court or grand jury or state's attorney's inquiry, if a person refuses to answer a question or produce evidence of any kind on the ground that he may be incriminated thereby, and if the prosecuting attorney, in writing and with approval of the attorney general, requests the court to order that person to answer the question or produce the evidence, the court after notice to the witness and hearing may so order, and that person shall comply with the order. In the case of a state's attorney's inquiry such application shall be made to the district court. After complying, and if, but for this section, he would have been privileged to withhold the answer given or evidence produced by him that person shall not be prosecuted or subject to penalty or forfeiture for or on account of any transaction, matter, or thing concerning which, in accordance with the order, he gave answer or produced evidence. But he may nevertheless be prosecuted or subjected to penalty or forfeiture for any perjury, false swearing or contempt committed in answering, or failing to answer, or in producing or failing to produce, evidence in accordance with the order.

Approved March 1, 1967.

CHAPTER 266

S. B. No. 126

(Ringsak, Mutch, Chesrown, Kautzmann, Morgan)

COPIES OF STATEMENTS TO BE PROVIDED

AN ACT

To require insurance adjusters, attorneys, and any other person who has taken a statement of any individual for the purpose of possible use in a lawsuit arising out of a tortious act to provide a copy of the statement to the person from whom said statement was taken.

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

§ 1. Copies of Statements To Be Provided.) Every insurance adjuster, attorney, or any other person who takes the statement of an individual, who may be a party to possible litigation, for use or possible use in the preparation of or trying of a civil suit arising out of a tortious act, and whether said statement be in writing or by any device which records matters stated, other than depositions and court proceedings, shall provide a copy of the statement to the person from whom said statement was taken within thirty days of the making of the statement. No such statement shall be used directly or indirectly in connection with a civil action unless submitted to the person as required herein.

Approved March 14, 1967.

JUDICIAL REMEDIES

CHAPTER 267

H. B. No. 672
(Boustead, Unruh, Schaffer)

EMERGENCY CARE RENDERED BY FIREMEN, POLICEMEN, OR PEACE OFFICERS

AN ACT

To reduce civil liability of firemen, policemen or peace officers who render aid at the scene of an emergency while on duty.

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

§ 1. Emergency Treatment by Firemen, Policemen or Peace Officers.) Any fireman, policeman or peace officer who in good faith renders emergency care at the scene of an emergency in this state shall be expected to render only such emergency care as in his judgment is at the time indicated and shall not be liable for any civil damages for acts or omissions done in his good faith judgment except for damages occasioned by wanton acts of misconduct or negligence in rendering such emergency care.

Approved February 28, 1967.

CHAPTER 268

H. B. No. 841
(Aamoth, Kelsch, Unruh)

PLAINTIFF'S UNDERTAKING IN ATTACHMENT

AN ACT

To amend and reenact section 32-08-06 of the North Dakota Century Code, relating to plaintiff's undertaking in attachment.

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

§ 1. Amendment.) Section 32-08-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

32-08-06. Plaintiff's Undertaking.) The clerk must require a written undertaking on the part of the plaintiff with sufficient surety to the effect that if the defendant recovers judgment, or the attachment is set aside by the order of the court, the plaintiff will pay all costs that may be awarded to the defendant, and all damages which he may sustain by reason of the attachment, not exceeding the sum named in the undertaking, which shall be set in the discretion of the court but in no case shall be less than five hundred dollars. If the attachment is set aside by order of the court, the defendant may bring an action upon such undertaking without first obtaining judgment against the plaintiff in the action in which such undertaking was given.

Approved March 14, 1967.

CHAPTER 269

S. B. No. 223
(Decker)

EXPENSES OF DEFENDANT IN EMINENT DOMAIN
PROCEEDINGS

AN ACT

To require any entity of this state to pay defendant's expenses in eminent domain proceedings which after having been commenced are withdrawn or dismissed.

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

§ 1. Eminent Domain Proceedings—Costs of Defendant To Be Paid When Proceedings Withdrawn or Dismissed by Party Bringing the Proceedings.) Whenever the state acting by and through its officers, departments or agencies, or any municipality or political subdivision of this state acting by and through their officers, departments or agencies, or any public utility, corporation, association or other entity which has been granted the power of eminent domain by the state, shall commence eminent domain proceedings against any land within this state and thereafter withdraws or has such proceedings dismissed without agreement of the defendant, the state, municipality, political subdivision, public utility, corporation, association, or entity commencing such eminent domain proceedings shall be liable for and pay to the owner of such land, all court costs, expenses, and fees including reasonable attorney fees as shall be determined by the court in which the proceedings were filed.

Approved March 14, 1967.

CHAPTER 270

S. B. No. 278
(Ringsak, Beck)

SUPREME COURT WRITS TO LOWER COURTS

AN ACT

To create section 32-34-01.1 of the North Dakota Century Code, relating to the issuance of a writ of mandamus by the supreme court to judges of inferior courts, and to amend and reenact section 32-34-02 of the North Dakota Century Code, relating to the issuance of such writs.

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

§ 1.) Section 32-34-01.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

32-34-01.1. Supreme Court Sua Sponte May Issue Writ to Judges of Inferior Courts.) The supreme court sua sponte may issue a writ of mandamus to any district court judge or other inferior court judge to compel such judge to act upon any judicial matters which have been properly placed before such judge's court. Should such judge fail to act as directed by the writ he shall be liable for the punishment provided by this chapter.

§ 2. **Amendment.)** Section 32-34-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

32-34-02. When Issued.) The writ must be issued in all cases when there is not a plain, speedy, and adequate remedy in the ordinary course of law. It must be issued upon affidavit upon the application of the party beneficially interested except those writs issued sua sponte by the supreme court.

Approved March 14, 1967.

JUSTICE COURT

CHAPTER 271

S. B. No. 346

(Senate Judiciary Committee)

CHANGE OF VENUE IN JUSTICE COURT

AN ACT

To amend and reenact section 33-03-11 of the North Dakota Century Code, relating to a change of venue in justice court.

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

§ 1. Amendment.) Section 33-03-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

33-03-11. Change of Venue in Civil and Criminal Actions in Justice Court.) A justice court, at any time before the trial of a civil or criminal action, on motion, may change the place of trial in the following cases:

1. When, by affidavit of either party, it appears to the satisfaction of the justice before whom the action is pending that such justice is a material witness for either party;
2. When either party makes and files an affidavit that he believes he cannot have a fair and impartial trial before such justice by reason of the interest, prejudice, or bias of the justice;
3. When from any cause the justice is disqualified from acting; or
4. When the justice is sick or unable to act.

Approved March 4, 1967.

LABOR AND EMPLOYMENT

CHAPTER 272

H. B. No. 647

(Metzger, Burke, Austin, Kuehn)

DEFINITION OF COMMISSIONER

AN ACT

To amend and reenact subsection 6 of section 34-06.1-02 of the 1965 Supplement to the North Dakota Century Code, changing the definition of commissioner to mean commissioner of labor.

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

§ 1. Amendment.) Subsection 6 of section 34-06.1-02 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

6. "Commissioner" means the commissioner of labor; and

Approved March 10, 1967.

CHAPTER 273

S. B. No. 213

(Lowe, Meschke)

MEDIATORS TO LABOR DISPUTES

AN ACT

To provide for the appointment of mediators to labor disputes and the compensation therefor.

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

§ 1. Mediators—Appointment—Functions—Compensation.)

The state labor commissioner shall have power to act as mediator, or to appoint any competent, impartial, disinterested person to act as mediator, in any labor dispute either upon his own initiative or upon the request of one of the parties to the dispute. It shall be the function of such mediator to bring the parties together voluntarily under such favorable auspices as will tend to effectuate settlement of the dispute, but neither the mediator nor the state labor commissioner

shall have any power of compulsion in mediation proceedings. The state labor commissioner shall provide necessary expenses for such mediators, other than for himself or his deputy, as he may appoint, under reasonable compensation plus per diem expenses for each such mediator, and prescribe reasonable rules of procedure for such mediators.

Approved March 15, 1967.

CHAPTER 274

S. B. No. 211

(Lowe, Longmire, Meschke)

COMMISSIONER MAY INITIATE MANDAMUS PROCEEDINGS

AN ACT

To amend and reenact section 34-12-08 of the 1965 Supplement to the North Dakota Century Code, relating to labor management relations empowering the commissioner of labor to initiate mandamus proceedings.

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

§ 1. Amendment.) Section 34-12-08 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

34-12-08. Authority of Commissioner.) Whenever it is charged that any person is engaging in or has engaged in any unfair labor practice, the commissioner shall investigate the charges informally and if it appears that an unfair labor practice is occurring or has occurred, the commissioner shall have power to issue and cause to be served upon such person a written specification of the issues which are to be considered and determined. If, upon the evidence, the commissioner shall be of the opinion that any person named in the written specifications has engaged in or is engaging in any such unfair labor practice, he shall issue and cause to be served upon such person an order requiring such person to cease and desist from such unfair labor practice. If the order is not obeyed, the commissioner shall have the authority to apply to the appropriate district court for such action as is necessary to enforce his order, including injunction and mandamus proceedings. The commissioner may act as a conciliator in any labor dispute.

Approved March 10, 1967.

CHAPTER 275

S. B. No. 212

(Lowe, Longmire, Meschke)

LABOR-MANAGEMENT RELATIONS SUBJECT TO
ADMINISTRATIVE AGENCIES PRACTICE ACT

AN ACT

To amend and reenact section 34-12-10 of the 1965 Supplement to the North Dakota Century Code, relating to labor-management relations and to apply the provisions of chapter 28-32 thereto.

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

§ 1. **Amendment.)** Section 34-12-10 of the 1965 Supplement to the North Dakota Century Code is amended and reenacted to read as follows:

34-12-10. Applicability of Administrative Agencies Practice Act.) All proceedings hereunder and all appeals to the courts shall be governed by the provisions of chapter 28-32.

Approved March 8, 1967.

CHAPTER 276

H. B. No. 766

(Metzger, Kuehn, Williamson, Aafedt, Sanstead, Haugland,
(Kelsch, Hilleboe)

WAGE CLAIMS COLLECTIBLE BY COMMISSIONER

AN ACT

To amend and reenact section 34-14-08 of the 1965 Supplement to the North Dakota Century Code, relating to the amount of wages assignable to the commissioner of labor for collection.

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

§ 1. **Amendment.)** Section 34-14-08 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

34-14-08. Assignment of Wage Claims to Commissioner of Labor for Recovery by Civil Action.) The commissioner of labor or his deputy shall have power and authority to take assignments of wage claims, rights of action for penalties pro-

vided by section 34-14-09, not to exceed five hundred dollars in any case of any one claim without being bound by any of the technical rules with reference to the validity of such assignments; and shall have power and authority to prosecute actions for the collection of such claims of persons who, in the judgment of the commissioner or his deputy, are entitled to the services of the commissioner or his deputy and who, in his judgment, have claims which are valid and enforceable in the courts. The commissioner or his deputy shall have power to join various claimants in one preferred claim or lien, and in case of suit to join them in one cause of action.

Approved March 10, 1967.

LIENS

CHAPTER 277

S. B. No. 132
(Chesrown, Longmire)

DISPOSITION OF MORTGAGED PROPERTY

AN ACT

To amend and reenact section 35-01-26 of the North Dakota Century Code, relating to the sale or disposition of mortgaged property.

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

§ 1. **Amendment.)** Section 35-01-26 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

35-01-26. Destroying, Concealing, Selling Property Subject to Lien—Penalty.) Every person having in his possession or under his control any personal property upon which there is known to him to be a subsisting lien or security interest, by contract, or by operation of law, who willfully destroys, conceals, sells or in any manner disposes of such property or any part thereof otherwise than as prescribed by law, or by the security agreement or materially injures the same without the written consent of the holder of the lien or the secured party, is guilty of a misdemeanor if the value of the property does not exceed one thousand dollars, and is guilty of a felony if the value of the property exceeds one thousand dollars.

Approved March 1, 1967.

CHAPTER 278

H. B. No. 784
(Unruh, Schaffer, Olienyk)

SPECIAL LIENS

AN ACT

To amend and reenact section 35-20-11 of the North Dakota Century Code, providing a summary method for foreclosure of special liens.

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

§ 1. **Amendment.**) Section 35-20-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

35-20-11. Lien for Repair, Improvement, Carriage, Protection, Safekeeping of Personalty.) Every person, excepting those entitled to a specific lien under other chapters of this title, who, while lawfully in possession of an article of personal property, renders any service to the owner thereof by labor or skill employed for the repair, protection, improvement, safekeeping, or carriage thereof has a special lien thereon, dependent on possession, for the compensation, if any, which is due to him from the owner for such service. In addition to other remedies available for the enforcement of liens, the holder of such special lien may foreclose the same and acquire ownership in himself of such article of personal property provided the holder of such a special lien has obtained the address of the owner at the time such article was left, by:

1. Causing a notice of intention to foreclose such special lien to be sent to the owner thereof, by registered or certified mail, to the address obtained from such owner at the time such article is left, which notice shall be in substantially the following form:

To....., owner of (describe the article upon which lien is claimed.)

You are hereby notified that the undersigned claims a special lien upon the above-described article by virtue of section 35-20-11, North Dakota Century Code; and hereby further advises you of his intention to foreclose such special lien and acquire ownership of such article, unless the sum of (insert amount claimed) is paid within sixty days from the date hereof; or unless you shall

notify the undersigned within such period of your election to challenge the amount claimed due for services rendered thereon.

Dated

(Party claiming lien)

2. If, at the expiration of sixty days from the date of mailing such notice, payment shall not have been received of the amount claimed to be due, or an election to challenge the amount due has been received, the lien claimant shall be deemed to have succeeded to ownership of the article of personal property upon which the special possessory lien is claimed.

If the owner of such property shall cause an election to challenge the amount claimed to be delivered to the lien holder, then the summary foreclosure procedure set out herein shall not be available to the lien claimant; and the lien must be foreclosed by action.

Approved March 10, 1967.

CHAPTER 279

S. B. No. 119

(Wilhite, Freed, Longmire, Melland)

SHORT-TERM MORTGAGE REDEMPTION ACT

AN ACT

To permit an alternative procedure for foreclosure of a real estate mortgage when so permitted by the terms of said mortgage.

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

§ 1. Mortgage May Provide for Foreclosure Under Act.)

The parties to a real estate mortgage upon property involving an area not to exceed three acres, which contains therein a power of sale, may provide in said mortgage that upon default in the conditions of the mortgage, the mortgage may be foreclosed as provided in this Act.

§ 2. Procedure Where Not Covered by Act.) Where not inconsistent with the provisions of this Act, the procedure for foreclosure set forth in the laws of the state of North Dakota as now enacted or hereinafter amended shall apply and be followed in any foreclosure hereunder.

§ 3. Wording To Be Contained in Mortgage.) This Act may be cited as the "Short-term Mortgage Redemption Act" and shall not apply to any mortgage which does not contain the following wording or its equivalent: "The parties agree that the provisions of the Short-term Mortgage Redemption Act shall govern this mortgage". Any mortgage executed under this Act shall also contain in its title in printed or typed bold-face capital letters: "Mortgage-Short-term Mortgage Redemption".

§ 4. Redemption Period Under Act.) All real property sold as provided in section 32-19-08 of the North Dakota Century Code upon foreclosure of a mortgage executed pursuant to this Act may be redeemed within the time period specified in this Act and in such manner as is prescribed by chapter 28-24 of the title Judicial Procedure, Civil. The period of redemption under this Act shall be as follows:

1. If the amount claimed due upon such mortgage at the date of the notice before foreclosure is more than 66 $\frac{2}{3}$ percent of the original indebtedness secured by the mortgage, the redemption period shall be six months.
2. In any other case, the redemption period shall be one year.

§ 5. Notice Before Foreclosure to State Time for Redemption.) When the notice before foreclosure required by section 32-19-20 of the North Dakota Century Code is served upon the title owner of record of the real estate described in the mortgage, such notice shall, where foreclosure is authorized under this Act, contain a statement as to the time for redemption after the sheriff's sale. Failure to include such a statement in the notice shall invalidate the notice for any purpose.

§ 6. Recording of Affidavit of Amount Due Necessary Before Recording of Sheriff's Deed.) In the event of a foreclosure under this Act where authorized by the terms of the mortgage and by law, no register of deeds shall record a sheriff's deed until and unless there is first recorded an affidavit of the mortgagee or the attorney for said mortgagee showing the amount due upon said mortgage indebtedness at the time of the notice before foreclosure. When so recorded the same shall be accepted by all parties as conclusive proof of such indebtedness unless prior to the recording of the sheriff's deed an affidavit by any party is recorded which shall contradict the mortgagee or the attorney for such mortgagee as to the amount of indebtedness due, in which case the one-year redemption period shall apply if it shall appear from such counter-affidavit that less than 66 $\frac{2}{3}$ percent of the original indebtedness secured by the mortgage was due on the date of the notice before foreclosure.

§ 7. No Deficiency Judgment Allowed.) When any mortgage has been foreclosed under this Act, the mortgagee or any party claiming by, through, or under said mortgagee, shall not be entitled to any judgment for deficiency.

Approved February 23, 1967.

CHAPTER 280

H. B. No. 929

(Aafedt, Peterson(1))

UNIFORM FEDERAL TAX LIEN REGISTRATION ACT

AN ACT

To provide for the filing of federal tax liens, releases, and notices thereof, and to make uniform the law with reference thereto.

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

§ 1. Federal Tax Lien—Place of Filing.)

1. Notices of liens upon real property for taxes payable to the United States, and certificates and notices affecting the liens shall be filed in the office of the register of deeds of the county in which the real property subject to a federal tax lien is situated.

2. Notices of liens upon personal property, whether tangible or intangible, for taxes payable to the United States and certificates and notices affecting the liens shall be filed as follows:

- a. If the person against whose interest the tax lien applies is a corporation or a partnership whose principal executive office is in this state, as these entities are defined in the internal revenue laws of the United States, in the office of the secretary of state;
- b. In all other cases in the office of the register of deeds of the county where the taxpayer resides at the time of filing of the notice of lien.

§ 2. Execution of Notices and Certificates.) Certification by the secretary of the treasury of the United States or his delegate of notices of liens, certificates, or other notices affecting tax liens entitles them to be filed and no other attestation, certification, or acknowledgment is necessary.

§ 3. Duties of Filing Officer.)

1. If a notice of federal tax lien, a refiling of a notice of tax lien, or a notice of revocation of any certificate described in subsection 2 is presented to the filing officer and

- a. He is the secretary of state, he shall cause the notice to be marked, held and indexed in accordance with the provisions of subsection 4 of section 41-09-42 (UCC 9-403) of the North Dakota Century Code as if the notice were a financing statement within the meaning of that code; or
- b. He is any other officer described in section 1 of this Act, he shall endorse thereon his identification and the date and time of receipt and forthwith file it alphabetically or enter it in an alphabetical index showing the name and address of the person named in the notice, the date and time of receipt, the serial number of the district director, and the total unpaid balance of the assessment appearing on the notice of lien.

2. If a certificate of release, non-attachment, discharge or subordination of any tax lien is presented to the secretary of state for filing he shall

- a. Cause a certificate of release or non-attachment to be marked, held, and indexed as if the certificate were a termination statement within the meaning of the Uniform Commercial Code, except that the notice of lien to which the certificate relates shall not be removed from the files, and
- b. Cause a certificate of discharge or subordination to be held, marked, and indexed as if the certificate were a release of collateral within the meaning of the Uniform Commercial Code.

3. If a refiled notice of federal tax lien referred to in subsection 1 or any of the certificates or notices referred to in subsection 2 is presented for filing with any other filing officer specified in section 1, he shall permanently attach the refiled notice or the certificate to the original notice of lien and shall enter the refiled notice or certificate with the date of filing in any alphabetical federal tax lien index on the line where the original notice of lien is entered.

4. Upon request of any person, the filing officer shall issue his certificate showing whether there is on file, on the date and hour stated therein, any notice of federal tax lien or certificate or notice affecting the lien, filed on or after July 1, 1967, naming a particular person, and if a notice or certificate

is on file, giving the date and hour of filing of each notice or certificate. The fee for a certificate is one dollar and twenty-five cents for each notice or certificate reported therein. Upon request, the filing officer shall furnish a copy of any notice of federal tax lien or notice or certificate affecting a federal tax lien for a fee of one dollar, plus seventy-five cents for the second and each succeeding page.

§ 4. Tax Liens and Notices Filed Before Effective Date of This Act.) Filing officers with whom notices of federal tax liens, certificates and notices affecting such liens have been filed on or before July 1, 1967 shall, after that date, continue to maintain a file labeled "federal tax lien notices filed prior to July 1, 1967" containing notices and certificates filed in numerical order of receipt. If a notice of lien was filed on or before July 1, 1967 any certificate or notice affecting the lien shall be filed in the same office.

§ 5. Fees.)

1. The fee for filing and indexing each notice or lien or certificate or notice affecting the tax lien is:

- a. For a tax lien on real estate, one dollar and fifty cents;
- b. For a tax lien on tangible and intangible personal property, one dollar;
- c. For a certificate of discharge or subordination, there shall be no fee;
- d. For all other notices, including a certificate of release or non-attachment, there shall be no fee.

2. The officer shall bill the district directors of internal revenue on a monthly basis for fees for documents filed by them.

§ 6. Uniformity of Interpretation.) This Act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

§ 7. Short Title.) This Act may be cited as the Uniform Federal Tax Lien Registration Act.

§ 8. Repeal.) Sections 35-26-01, 35-26-02, 35-26-03, 35-26-04, and 35-26-05 of the North Dakota Century Code are hereby repealed.

§ 9. Time of Taking Effect.) This Act shall take effect July 1, 1967.

Approved February 23, 1967.

LIVESTOCK

CHAPTER 281

H. B. No. 598

(Johnson(39), Austin, Dawson, Rivinius)

BONDS OF LIVESTOCK DEALERS

AN ACT

To amend and reenact subsection 1 of section 36-04-06 of the North Dakota Century Code, relating to the bonds required of livestock dealers and agents.

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

§ 1. Amendment.) Subsection 1 of section 36-04-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. For a dealer in livestock ten thousand dollars and for agents of livestock dealers five thousand dollars each;

Approved March 14, 1967.

CHAPTER 282

S. B. No. 334

(Holand, Jacobson)

DIRECTORS OF CORPORATE OR COOPERATIVE GRAZING ASSOCIATIONS

AN ACT

To amend and reenact sections 36-08-01, 36-08-02, 36-08-04, and 36-08-05 of the North Dakota Century Code, relating to definitions, powers, membership, and the election of directors of a corporate or cooperative grazing associations.

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

§ 1. Amendment.) Section 36-08-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-08-01. Definitions.) In this chapter, unless the context or subject matter otherwise requires:

1. "Association" means a corporate or cooperative grazing association;
2. "District" means a corporate or cooperative grazing district;
3. "Subdivision" means any portion or block of land situated within the outside boundaries of a district;
4. "Grazing area" means any area of land situated in any one or more counties in this state, which has been or may be acquired by purchase, lease, or otherwise by an association for grazing purposes or for the raising of forage crops;
5. "Cooperative grazing association" means a corporate or cooperative association mutually operated for the purpose of aiding in the conservation, restoration, improvement, development, and utilization of natural forage resources within any county or counties where a grazing area has been acquired for joint use by its members and for aiding in the restoration, conservation, improvement, development, and utilization of lands;
6. "Cooperative grazing district" means and includes a grazing area controlled by a grazing association and utilized by its members for grazing purposes under such definite restrictions, regulations, and limitations by the association as shall contribute to the conservation, restoration, improvement, and development of the forage resources of such land;
7. "Animal unit" means a cow, a bull, or a steer, or five sheep over six months of age on the first day of May of the year in which the age is being determined. Two horses shall be equivalent to three animal units. Animals not more than six months old on the first day of May of the year in which the age is being determined, and which are the natural increase of the permitted livestock, shall not be counted.

§ 2. **Amendment.**) Section 36-08-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-08-02. Powers of Grazing Association.) A nonprofit corporate or cooperative grazing association may be organized and operated under the general law governing corporate or cooperatives and this chapter, with the following additional power to:

1. Lease from the United States or any of its departments, corporations, or agencies, or from this state or any of its departments or agencies, or from any county or

- political subdivision therein, or from any other person or association, lands for grazing purposes and for the purpose of raising forage crops;
2. Purchase land and related property for grazing operations and for the purpose of raising forage crops;
 3. Apportion to members grazing rights within its district on such terms, conditions, and limitations, not in conflict with any of the provisions contained in any lease or leases made by the association with the county, state, or federal government, or any of its departments, boards, or agencies, as may be specified by the board of directors of the association;
 4. Issue grazing permits to nonmembers;
 5. Act as agent of, and cooperate with, the federal and state government or any department or agency thereof, in the conservation, restoration, improvement, development, and utilization of the forage resources in this state or for any other purpose, and to accept and use any funds provided by the federal or state government or any department or agency thereof;
 6. Borrow money directly from the United States or from any of its agencies or from any other person or persons on such terms and in such manner as may be determined by the board of directors, and to give such security therefor as the board of directors may authorize.

§ 3. Amendment.) Section 36-08-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-08-04. Members.) Any person may become a member of a corporate or cooperative grazing association if he:

1. Is an owner or lessee of land within the proposed boundaries or resides on the border of the grazing area within or without the county;
2. Is engaged in the raising of livestock within the grazing area;
3. Pays the membership fee;
4. Subscribes to the bylaws; and
5. Complies with the rules, regulations, and limitations determined by the board of directors of the association.

Any entrance, organization, or membership fee established by a grazing association shall not exceed the sum of five dollars, and the amount which a member may be required

to pay annually to assist in carrying on the business of the association shall not exceed the sum of five dollars.

When any member disposes of land owned or leased by him and upon which his membership in the association and the grazing rights in the district are based, he ceases to be a member of such association. If any member disposes of all or part of the land owned or leased by him so that another individual or other individuals, by the purchase and ownership or transfer of the lease to such land, acquires a right to membership and to grazing rights, the rights and interests involved and the grazing rights of all the parties shall be determined by the board of directors.

No member shall be liable for the debts of the association in an amount exceeding the sum remaining unpaid on his membership fee, except for debts lawfully contracted between him and the association.

§ 4. **Amendment.)** Section 36-08-05 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-08-05. Election of Directors.) The association may establish through its bylaws various subdistricts within the grazing district. When subdistricts are so established, one director of the association shall be elected from each subdistrict by the majority vote of the members therein who are eligible to vote. If subdistricts are not established by the association, one director shall be elected from each congressional township in the district by the majority vote of the members in such township who are eligible to vote. However, at the discretion of the membership of the association, all directors may be elected at large.

Approved February 24, 1967.

CHAPTER 283

H. B. No. 821

(Davis, Johnson, Dawson, Connolly)

LIVESTOCK RUNNING AT LARGE

AN ACT

To amend and reenact section 36-11-01 of the North Dakota Century Code, relating to livestock running at large, and providing penalties.

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

§ 1. Amendment.) Section 36-11-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-11-01. Stock Running at Large Prohibited—Penalties.) No cattle, horses, mules, swine, goats, or sheep shall be permitted to run at large. Any owner or possessor of any such animal who willfully permits any such animal to run at large through failure to maintain a lawful fence as provided in section 47-26-01, except in a grazing district as provided in section 36-11-07, shall be guilty of a misdemeanor.

Approved March 10, 1967.

MILITARY

CHAPTER 284

H. B. No. 816
(Moquist, Knudson, Leibhan)

VETERANS' AID COMMISSION LOANS

AN ACT

To amend and reenact sections 37-14-01, 37-14-03.3, 37-14-03.5, 37-14-04, 37-14-06, 37-14-07, 37-14-08, and 37-14-15 of the North Dakota Century Code, relating to the veterans' aid commission and loans to veterans, and making an appropriation.

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

§ 1. **Amendment.)** Section 37-14-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-14-01. Veterans' Aid Commission—Appointment—Qualifications—Secretary.) There is hereby established a veterans' aid commission consisting of five members to be appointed by the governor, one of whom shall be the commissioner of veterans' affairs. Each of such members shall have been a member of the armed forces of the United States during a time when a state of war shall have been declared to exist by the Congress of the United States, during the Korean conflict, or during hostilities in Vietnam. The commissioner of veterans' affairs shall be and serve as the executive secretary of the veterans' aid commission.

§ 2. **Amendment.)** Section 37-14-03.3 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-14-03.3. Revolving Fund.) Such sum of three hundred thousand dollars shall be a permanent revolving fund of the veterans' aid fund and shall not revert to the general fund and shall be used solely for the purpose of making loans to any veteran of the armed forces of the United States who served in World War II, the Korean conflict, or during hostilities in Vietnam, and who has not been dishonorably discharged, as provided for under this chapter. World War II is defined as service between December 7, 1941, and December 31, 1946. Korean conflict is defined as service between June 27, 1950, and January 31, 1955. Vietnam is defined as

service from February 1, 1955, to the cessation of hostilities as determined by the United States government for the purposes of veterans' administration benefits.

§ 3. **Amendment.)** Section 37-14-03.5 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-14-03.5. Interest and Income from Post-War Rehabilitation Fund to Become Part of Revolving Fund.) Such interest and income shall be a permanent revolving fund of the veterans' aid fund and shall not revert to the general fund, and shall be used for the purpose of making loans to any veteran of the armed forces of the United States in World War II, the Korean conflict, or during the hostilities in Vietnam, who has not been dishonorably discharged, as provided for under this chapter.

§ 4. **Amendment.)** Section 37-14-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-14-04. Veterans' Aid Fund—Purpose.) The purpose of the veterans' aid fund is to make loans or advancements to any veteran of the armed forces of the United States in World War II, the Korean conflict, or during hostilities in Vietnam, who has not been dishonorably discharged. A veteran may be permitted to make more than one loan providing he has satisfied payment requirements of a previous loan.

§ 5. **Amendment.)** Section 37-14-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-14-06. Commission May Provide Aid.) If the veterans' aid commission is satisfied that such applicant has served as a member of the armed forces of the United States for an aggregate time of not less than thirty days during World War II, the Korean conflict, or during hostilities in Vietnam, that he is a citizen and resident of the state of North Dakota, that he has not been dishonorably discharged, the veterans' aid commission may loan to such applicant, or a guardian of such applicant, a sum from the veterans' aid fund not to exceed the sum of five hundred dollars.

§ 6. **Amendment.)** Section 37-14-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-14-07. Repayment To Be Made to Aid Fund.) Upon the granting of such an application and at the time of such disbursement, the applicant, or his legally appointed guardian,

shall be required to execute an agreement with the veterans' aid commission that within a period of two years from the date of the receipt of the last item of such advancement he will repay to the state of North Dakota for the use of said veterans' aid fund the full amount of all advancements made to him without interest. The veterans' aid commission shall have the authority to take necessary legal action to collect loans if in the opinion of the commission the veteran has the financial means to repay, and he deliberately refuses to do so.

§ 7. Amendment.) Section 37-14-08 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-14-08. How Payments Are Made.) All payments or other expenditures approved by the commission shall be made upon vouchers approved by the state auditing board by warrant-checks prepared by the department of accounts and purchases.

§ 8. Amendment.) Section 37-14-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-14-15. Rehabilitation Fund Expended as Directed by Legislative Assembly.) Such fund shall be expended as directed and appropriated by the legislative assembly for the sole purpose of financing in whole or in part, the cost of a state post-war rehabilitation program, for the benefit of veterans of World War II, the Korean conflict, and service during Vietnam hostilities, at such time and under such conditions as the legislative assembly shall, by other laws prescribe.

§ 9. Appropriation.) There is hereby appropriated out of any moneys in the general fund of the state treasury, not otherwise appropriated, the sum of \$50,000.00 or so much thereof as may be necessary, to the veterans' aid commission for the purpose of administering the provisions of chapter 37-14 of the North Dakota Century Code, for the biennium beginning July 1, 1967, and ending June 30, 1969.

Approved March 15, 1967.

CHAPTER 285

H. B. No. 852
(Weber, Gackle)

APPOINTMENT OF CIVIL DEFENSE DIRECTOR AND
ADVISORY COUNCIL

AN ACT

To amend and reenact sections 37-17-03 and 37-17-04 of the North Dakota Century Code, relating to the appointment of a civil defense director and a civil defense advisory committee.

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

§ 1. **Amendment.)** Section 37-17-03 of the North Dakota Century Code is hereby amended to read as follows:

37-17-03. State Civil Defense Division.) There is hereby created within the office of the adjutant general a division of civil defense with a director appointed by the adjutant general. He shall hold office during the pleasure of the adjutant general and his compensation shall be fixed by the adjutant general within legislative appropriations.

The director may employ such technical, clerical, stenographic and other personnel and fix their compensation in conformity with state merit system regulations and may make such expenditures within the appropriation therefor, or from other funds made available to him for purposes of civil defense, as may be necessary to carry out the purposes of this chapter.

He shall coordinate the activities of all organizations for civil defense within the state, and shall maintain liaison with and cooperate with other state and federal civil defense agencies and organizations, and shall have such additional authority, duties and responsibilities authorized by this chapter as may be prescribed by the adjutant general.

On declaration of a state or national emergency by the governor or by national authority, requiring mobilization of state-wide civil defense resources and organizations, the director of the state civil defense will be directly responsible to the state adjutant general.

§ 2. **Amendment.)** Section 37-17-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-17-04. Civil Defense Advisory Council.) The North Dakota civil defense advisory council shall consist of the adjutant general as chairman and such other persons as he shall designate. The council shall advise the governor, the adjutant general and the director of civil defense on all matters pertaining to civil defense. Members of the council shall serve without compensation, but may be reimbursed for reasonable and necessary expenses incurred in the performance of their duties.

Approved March 4, 1967.

CHAPTER 286

H. B. No. 629
(Jenkins, Hilleboe)

RECORDS OF VETERANS

AN ACT

To amend and reenact section 37-18-04 of the North Dakota Century Code, relating to the duties and functions of the commissioner of the department of veterans' affairs, and to create a new section under chapter 37-18 pertaining to the keeping and maintaining of records of veterans, and providing that such records and information contained therein be kept confidential, except for certain purposes.

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

§ 1. Amendment.) Section 37-18-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-18-04. Duties of Commissioner.) It shall be the duty of the commissioner to coordinate agencies or instrumentalities of the state set up to render service and benefits to returning veterans; to have charge of and implement programs and benefits authorized by statute; to assist or represent veterans or their widows, administrators, executors, guardians, or heirs, in processing claims; to advise and assist veterans in taking advantage of the provisions of the Servicemen's Readjustment Act of 1944; or any similar or related measures afforded by the federal government; to assist, supervise, advise and direct the work of county service officers; to assist county service officers in the formation of county service to veterans' committees and to outline, assist and direct the activities of such committees; to disseminate information and to do any and all things necessary and proper for the purpose of carrying out the intent and purposes of this chapter.

The department of veterans' affairs may receive from the United States government such records of veterans as the United States government may wish to turn over to the department of veterans' affairs and same shall keep and maintain such records as hereafter provided by this chapter.

§ 2.) Section 37-18-11 of the North Dakota Century Code is hereby created and enacted to read as follows:

37-18-11. Release of Information and Records—Confidential Nature.) All records and papers pertaining or relating to veterans which are transmitted by the United States government to the department of veterans' affairs shall be kept and maintained by said department under the following provisions and conditions:

1. All records and papers of the department are to be utilized in the manner to best serve the public interest, but the veteran's right of privacy as to information pertaining to his military or naval service and to confidential information contained in his application for benefits will be respected.
2. All reports of investigation made by employees of the department or at the direction of the department for official departmental purposes are for the use of the commissioner and his staff only. Materials and information which disclose the investigative techniques of the department or the identity of confidential informants and material received in confidence by representatives of the department will not be released.
3. Records pertaining to any application for benefits, whether pending or adjudicated, will be deemed confidential and no disclosure therefrom will be made except in the circumstances and under the conditions set forth in this chapter, and any person making application for benefits shall hereinafter be referred to as the applicant.
4. An applicant may not have access to official department records concerning himself, but information from official records may be disclosed to an applicant or his duly authorized representative as to matters concerning the applicant.
5. "Duly authorized representative" shall be defined as any person authorized in writing by the applicant to act for him, or his legally constituted representative if the applicant is incompetent or deceased. Where for proper reason no such representative has been or will be appointed, his spouse, an adult child or if the appli-

cant is unmarried, either of his parents shall be recognized as the duly authorized representative of the applicant.

6. Medical information may be disclosed as follows:
 - a. Information contained in medical records on file may be released to the veteran on request, except information contained in the medical record which would prove injurious to his physical or mental health, in which case the information will be released only to his duly authorized representative; and
 - b. Information contained in medical records of veterans and beneficiaries pertaining to medical history, diagnosis, findings, or treatment may be disclosed directly to physicians and hospitals upon request and the submission of a written authorization from the veteran or beneficiary, or in the event he is incompetent, from his duly authorized representative. This information will be released only with the consent of the patient and on the condition that it is to be treated as a privileged communication. However, such information may be released without the consent of the veteran or his representative when a request for such information is received from the veterans' administration, the United States public health service, the superintendent of a state hospital, a commissioner or head of a state department of mental hygiene, or head of a state, county or city health department.
7. Information contained in loan files may be made available to any party having an interest in such loan transaction upon approval by the director or pursuant to rules and regulations promulgated by him.
8. Information contained in department files required for official purposes by any agency of the United States government or by any agency of the state of North Dakota, or by any law enforcement or public welfare agency of any North Dakota county or municipality may be furnished in response to an official request, written or oral, from such agency. The requesting agency shall be asked to specify the purpose for which such information is to be used.
9. Members of the legislative assembly may be furnished such information contained in department files as may be requested for official use.

10. A county veterans' service officer may be permitted to inspect records pertaining to any application for benefits in which his office may be directly involved upon the condition that only such information contained therein as may be properly disclosed will be disclosed by him only to the applicant or if the applicant is incompetent, to his legally constituted representative.
11. When records pertaining to any application for benefits are requested for use in any judicial proceedings, they will be released only upon service of a proper subpoena and upon the condition that they will be returned upon conclusion of such proceedings.
12. Addresses of applicants from department records will not be furnished, except as provided in subsections 5 through 10. When an address is requested by a person to whom it may not be furnished, the person making the request will be informed that correspondence enclosed in an unsealed envelope showing no return address, with the name of the addressee thereon, and bearing sufficient postage to cover mailing costs will be forwarded by the department. At the time the correspondence is forwarded, the department's return address will be placed on the envelope. If undelivered mail is returned to the department, the original sender will be notified thereof, but the envelope will be retained by the department. In no event will letters be forwarded for the purposes of debt collection, canvassing, or harassment.
13. Separation documents evidencing service in the armed forces of the United States will be considered confidential and privileged, anything contained in subsections 4 through 10, notwithstanding. Examination of such records will be limited to authorized employees of the department and information entered thereon will be disclosed only to interested governmental agencies for the purpose of assisting veterans and their dependents to obtain the rights and benefits to which they may be entitled.

Approved February 23, 1967.

CHAPTER 287

S. B. No. 380

(Torgerson, Becker, Decker, Nasset, Kelly(15), Ringsak, Ruemmele,
(Kelly(24), Trenbeath, Freed, Sorlie, Nething, Sands, Meschke)

EDUCATIONAL ASSISTANCE TO NORTH DAKOTA VETERANS

AN ACT

To provide educational assistance to the North Dakota veterans who have served in the armed forces of the United States for a period of more than one hundred eighty days from and after August 5, 1964, and providing an appropriation therefor.

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

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

1. "Period of service" means any service of any veteran who served on active duty in the armed services of the United States for more than one hundred eighty days, which active duty time occurred after August 5, 1964, or who entered and was released from active duty after August 5, 1964, for a service connected disability prior to serving more than one hundred eighty days.
2. "Veteran" means a man or woman who served honorably and faithfully in the armed services of the United States for the period of service set forth in subsection 1 of section 1 of this Act and who was a resident of the state of North Dakota at the time of entering such service and for at least six months prior thereto.
3. "Honorable and faithful service" shall be such service as evidenced by a discharge or its equivalent other than a dishonorable discharge.
4. "Resident" means a person who has acquired a status as follows:
 - a. Was born in and lived in the state of North Dakota until entrance into the armed forces of the United States; or
 - b. Was born in, but was temporarily living outside the state of North Dakota, not having abandoned residence therein prior to entrance into the armed forces of the United States; or
 - c. Was born elsewhere but had resided within the state of North Dakota for at least six months prior to entrance into military service and had prior to or during such six-month period:

- (1) Registered for voting, or voted in the state of North Dakota;
- (2) Being an unemancipated minor during such period of residence, had lived with a parent or person standing in loco parentis who had acquired a residence as set forth in this section; and
- (3) If not registered for voting in the state of North Dakota, was not registered for voting in another state, and had resided in the state of North Dakota for at least six months prior to entrance into the armed forces of the United States.

§ 2. Establishment of a Vietnam Veterans' Educational Aid Fund.) There is hereby established a Vietnam veterans' educational aid fund which fund shall be maintained in the state treasury and used solely for the purposes of this Act. Such fund shall be administered by the commissioner of veterans' affairs pursuant to the provisions of this Act.

§ 3. Qualified Veterans to Receive Reduction in Mandatory Admission Fees of Institutions Under Board of Higher Education.) Any veteran who qualifies pursuant to the provisions of this Act and who shall receive a certification of such qualifications as determined and certified by the commissioner of veterans' affairs of the department of veterans' affairs and who shall be admitted and enrolled in an institution of higher education under the control and administration of the state board of higher education, shall be entitled to a sixty-dollar-per-semester or forty-dollar-per-quarter reduction, whichever the case may be, of the mandatory admission fees charged at such institution for each semester or quarter during which such veteran shall have become enrolled within the limitations provided for in section 5 of this Act.

§ 4. Private Institutions and Junior Colleges May Credit Veterans with a Reduction of Mandatory Admission Fees.) Any veteran who qualifies pursuant to the provisions of this Act and who shall receive a certification of such qualifications as determined and certified by the commissioner of veterans' affairs of the department of veterans' affairs and who shall be admitted and enrolled in a junior college established pursuant to the provisions of chapter 15-18 of the North Dakota Century Code or a private institution of higher learning located within this state may be credited sixty dollars per semester or forty dollars per quarter, whichever the case may be, by the institution in which he is enrolled, on the mandatory admission fees

charged at such institution for each semester or quarter during which such veteran shall have become enrolled within the limitations provided for in section 5 of this Act.

§ 5. Period of Time Aid Given—Maximum—Time Limitations When Benefits Are To Be Used.) Each eligible veteran pursuant to the provisions of this Act shall be entitled to receive the benefits of this Act for a period of one month for each month or fraction of a month such veteran was on active duty with the armed forces of the United States, which period, however, shall not exceed a total of thirty-six months of benefits. When a veteran has become enrolled at one of the institutions of higher education pursuant to this Act, the number of months of each semester or quarter shall be deducted from the number of months such veteran is eligible to receive the benefits of this Act. If such veteran shall not have the sufficient number of months at any time equal to a full semester or quarter, such fractional time shall qualify him to receive a full semester or quarter reduction in admission fees. Provided further, that any veteran who qualifies under the provisions of this Act shall be required to use such benefits within eight years from the effective date of this Act or from his date of discharge if the veteran is discharged after the effective date of this Act. Provided, however, that if the state of North Dakota shall provide for future benefits or bonuses, the amounts received under the provisions of this Act shall be deducted from such future benefits or bonuses if the Act or Acts for future benefits or bonuses so provides.

§ 6. Institutions To Be Reimbursed from Fund—Commissioner of Veterans' Affairs to Approve.) Each private institution of higher learning or junior college crediting a veteran's mandatory admission fee under the authority of section 4 of this Act and each institution of higher learning under the control and administration of the board of higher education shall within forty-five days after the commencement of any quarter or semester submit to the commissioner of veterans' affairs of the department of veterans' affairs the names of the veterans enrolled at such institution with the amount such veteran received as a reduction in his mandatory admission fee. The commissioner shall approve such voucher as to the eligibility of the veterans listed and the amounts such veterans received as reductions in their mandatory admission fees and submit a voucher to the department of accounts and purchases, and state auditing board for approval. Upon approval by the state auditing board, the department of accounts and purchases shall issue a warrant-check on the Vietnam veterans' educational aid fund to the institution submitting such voucher.

§ 7. **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 or so much thereof as may be necessary, to the Vietnam veterans' educational aid fund for the purpose of paying sixty dollars per semester or forty dollars per quarter, whichever the case may be, on the mandatory admission fee charged each semester or quarter by each institution under the control and administration of the board of higher education and each private institution of higher learning or junior college crediting a veteran's mandatory admission fee, under the authority of section 4 of this Act, for each eligible veteran pursuant to this Act for the biennium beginning July 1, 1967, and ending June 30, 1969.

Approved March 14, 1967.

MINING AND GAS AND OIL PRODUCTION

CHAPTER 288

H. B. No. 669
(Hilleboe, Powers, Backes)

CLERICAL HELP OF MINE INSPECTOR

AN ACT

To amend and reenact section 38-03-03 of the North Dakota Century Code, relating to clerical help of mine inspector.

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

§ 1. **Amendment.)** Section 38-03-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

38-03-03. Bond, Office, and Clerical Help of Inspector.) Before entering upon the duties of his office, the inspector shall furnish a bond in the penal sum of five thousand dollars. The inspector shall have his office in the state capitol building. He may employ all necessary clerical help for the purpose of carrying out the provisions of this chapter and may fix the compensation of such help, but the same shall not exceed the sum of three thousand dollars per annum.

Approved March 14, 1967.

CHAPTER 289

H. B. No. 926

(Fossum, Glaspey, Unruh, Dornacker, Hilleboe, Backes,
(Brown, Saugstad, Tweten, Haugland)

REGULATION OF SUBSURFACE MINERALS

AN ACT

To provide for the regulation of the development and production of certain subsurface minerals, and providing a penalty.

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

§ 1. Definitions.) As used in this Act, unless the context otherwise requires:

1. "Subsurface minerals" means and includes all naturally occurring elements, and their compounds, natural mineral salts of boron, bromine, calcium, fluorine, helium, iodine, lithium, magnesium, nitrogen, phosphorus, potassium, sodium, and sulfur, and their compounds, occurring more than five hundred feet below the surface of the land.
2. "Commission" means the industrial commission of the state of North Dakota.
3. "Person" means and includes any natural person, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, or other representative of any kind, and includes any department, agency, or instrumentality of the state or of any governmental subdivision thereof; the masculine gender, in referring to a person, includes the feminine and the neuter genders.

§ 2. Jurisdiction of Commission.) The commission has jurisdiction and authority over all persons and property, public and private, necessary to enforce effectively the provisions of this chapter. The state geologist shall act as a supervisor charged with the duty of enforcing the regulations and orders of the commission applicable to the subsurface mineral resources of this state and the provisions of this chapter. The commission has authority to make such investigations as it deems proper to determine whether facts exist which justify action by the commission. The commission acting through the office of the state geologist has the authority:

1. To require:
 - a. The furnishing of a reasonable bond with good and sufficient surety, conditioned upon the full compliance with the provisions of this chapter, and the rules and regulations of the industrial commission prescribed to govern the development and production of subsurface minerals on state and private lands within the state of North Dakota.
 - b. The making and filing of all logs, including radioactivity, resistivity and mechanical logs and the filing free of charge of samples and core chips and of complete cores when requested in office of the state geologist. The logs and cores shall be confidential for a period of two years when so requested by the operator and such period may be further extended upon approval by the commission.
 - c. The filing of monthly production reports in the manner prescribed by the commission.
2. To regulate:
 - a. The drilling, and plugging of wells and all other operations governing the method of production of subsurface minerals.
3. To promulgate and to enforce rules, regulations, and orders to effectuate the purposes and the intent of this chapter.
4. To inspect all drilling sites. For the purposes of this provision, the state geologist or his representative shall have access to all drilling or production installations for purposes of inspection and shall have the authority to require the operators aid if same is necessary and is requested.

§ 3. Drilling Permit Required.) It shall be unlawful to commence operations for drilling for the exploration or production of subsurface minerals without first obtaining a permit from the state geologist, under such rules and regulations as may be prescribed by the commission and paying to the commission a fee of twenty-five dollars for each such permit.

§ 4. Procedure.) The administrative procedure involved in the adopting of any rules or regulations or the issuance of any orders by the commission under the provisions of this Act shall be in accordance with the provisions of chapter 38-08 governing the procedure in the administration of the Oil and Gas Conservation Act; provided, however, that in the event an emergency is found to exist by the commission which in its

judgment requires the making, revoking, changing, amending, modifying, altering, enlarging, renewal or extension of a rule, regulation or order without first having a hearing, such emergency rule, regulation or order shall have the same validity as if a hearing with respect to the same had been held after due notice. The emergency rule, regulation or order permitted by this section shall remain in force no longer than fifteen days from its effective date, and in any event, it shall expire when the rule, regulation, or order made after due notice and hearing with respect to the subject matter of such emergency rule, regulation or order becomes effective.

§ 5. Penalty — Injunction — Provisions Applicable.) The provisions of sections 38-08-16 and 38-08-17 shall be applicable to the provisions of this chapter and to the rules, regulations and orders of the commission promulgated hereunder.

Approved March 1, 1967.

CHAPTER 290

S. B. No. 369

(Wilhite, Decker, Trenbeath)

EXECUTION OF OIL AND GAS DOCUMENTS AFFECTING INTERESTS OWNED BY ABSENT PERSONS

AN ACT

To provide a method for the execution of oil and gas leases and other documents involving mineral, leasehold or royalty interests owned or claimed by absent persons under certain circumstances.

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

§ 1. Appointment of Trustee to Execute Mineral Lease and Other Documents Where Owner or Claimant Has Absented Himself.) Where any undivided mineral, leasehold or royalty interest in land is claimed or owned by a person whose place of residence and whereabouts is unknown, and cannot reasonably be ascertained, the district court of the county in which the said land or a portion thereof is situated shall have the power to declare a trust in the interest of such owner or claimant and appoint a trustee therefor. Upon satisfactory proof made by the petitioner that a diligent but unsuccessful effort to locate such owner or claimant has been made and that it will be in the best interest of all owners of interests in said lands, the court shall authorize such trustee to execute and deliver an oil, gas or other mineral lease, an assignment

of leasehold interest, a ratification, division orders or other related documents or instruments, on such terms and conditions as the court may approve. All proceedings shall substantially comply with that provided for the administration of trusts in chapter 59-04.

§ 2. Who May Institute Proceedings.) The proceedings provided for by this Act may be instituted upon the petition of any one or more persons who own a mineral, leasehold or royalty interest in said land.

§ 3. Disposition of Income and Royalties.) All bonuses, rental payments, royalties and other income shall be paid to the trustee until termination of the trust and notice thereof is given to all interested parties. All such bonuses, rental payments, royalties and other income shall be distributed by the trustee to the person or persons entitled thereto upon proper order of the said district court.

Approved March 14, 1967.

MOTOR VEHICLES

CHAPTER 291

S. B. No. 356

(Melland, Coughlin, Robinson, Meschke, Lips, Nething,) (Christensen, Ringsak, Holand, Sorlie, Trenbeath)

REGULATION OF OUTDOOR ADVERTISING ADJACENT TO HIGHWAYS

AN ACT

Declaring public policy with regard to the regulation of outdoor advertising and the restoration, preservation and enhancement of scenic beauty; prohibiting outdoor advertising within six hundred and sixty feet of the nearest edge of the right-of-way for the state highway system and providing for exceptions therefrom; providing for the removal or acquisition of certain outdoor advertising rights and the payment of compensation therefor; establishing a highway corridor board and prescribing other duties and powers; providing for zoning for land use adjacent to the state highway system; authorizing the review of property rights previously acquired for outdoor advertising purposes and the reconveyance of such rights when determined to be inconsistent with the purposes of this Act; authorizing the promulgation of rules and regulations by the highway corridor board consistent with the requirements of sections 131 and 319 of title 23, United States Code and the enforcement thereof; providing for public hearings and appeals to the district court; to amend subsection 37 of section 24-01-01.1 of the North Dakota Century Code and declaring an emergency.

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

§ 1. Declaration of Policy.) It is hereby declared to be in the public interest reasonably to regulate advertising devices along the highways hereinafter specified 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. It is the intention of the legislature in this Act to provide a statutory basis for the reasonable regulation, but not the prohibition, of outdoor advertising through zoning principles and standards consistent with the public policy relating to the areas adjacent to the state highway system pursuant to title 23, United States Code, section 131 and section 319 and rules and regulations promulgated thereunder. It is further declared to be in the public interest to review all rights now acquired by the state of North Dakota for the use and benefit of the state highway department pertaining to the right and control over the erection, location or maintenance of billboards, signs or any form of advertising adjacent to the state

highway system, to determine and designate such areas adjacent to the state highway system as are necessary for the restoration, preservation and enhancement of scenic beauty and to vacate to the owner such property rights acquired in areas not so determined and designated.

§ 2. Definitions.)

1. "Commissioner"—commissioner shall mean the North Dakota state highway commissioner or his authorized agents.
2. "Outdoor advertising"—outdoor advertising means a sign, display or device of any kind or character including statutory, erected or maintained for outdoor advertising purposes, upon which any poster, bill, printing, painting or other advertisement of any kind whatsoever may be placed for advertising purposes and shall include but not be limited to any card, cloth, paper, metal, painted or wooden sign of any character placed for outdoor advertising purposes, on or affixed to the ground or any tree, wall, bush, rock, fence, building, structure or thing, either privately or publicly owned. The terms sign, display, or device comprehend all forms of outdoor advertising and the use of one such term in this Act includes all forms of outdoor advertising.
3. "State highway system" shall mean the state highway system as defined in section 24-01-01.1(42) of the North Dakota Century Code.
4. "Erect" means to construct, build, raise, assemble, place, affix, attach, create, paint, draw, or in any other way bring into being or establish.
5. "Maintain" means to exist.
6. "Board" shall mean the highway corridor board.

§ 3. Limitations of Outdoor Advertising.) Subject to the provisions of this Act, no sign shall, after January 1, 1968, be erected or maintained within six hundred and sixty feet from the nearest edge of the right-of-way and visible from the main traveled way of any highway which is a part of the state highway system in this state except the following:

1. Official signs and notices, directional signs and notices, which shall include, but not be limited to, signs and notices pertaining to natural wonders, scenic and historic attractions and outdoor recreational areas subject to the national standards to be promulgated by the secretary of transportation.

2. Signs advertising the sale or lease of property upon which they are located.
3. Signs specifically advertising activities conducted, services rendered, goods sold, stored, produced or mined, or the name of the enterprise on the property and which are within fifty feet of the area used for the purpose advertised and upon which they are located.
4. Signs in areas which are now or hereafter zoned industrial, commercial, or the like by the board as provided in this Act.
5. Signs in unzoned commercial or industrial areas, which now or hereafter qualify as such, pursuant to the agreement between the board and the secretary of transportation according to title 23, United States Code, section 131.
6. Signs relocated by reason of the construction or reconstruction of the state highway system.
7. Official highway signs within interstate rights-of-way giving specific information for the traveling public pursuant to title 23, United States Code, section 131(f) and the rules and regulations promulgated thereunder.
8. Signs calling attention to the location of buried utility lines.

§ 4. Removal of Signs.) Any sign lawfully in existence along the state highway system on the effective date of this Act which is in conformity with this Act and the regulations established by the board shall not be required to be removed until sixty months have elapsed following the date of its erection; provided, however, that no such sign shall be required to be removed before July 1, 1970. Any sign lawfully in existence along the state highway system on the effective date of this Act which does not conform to this Act or the regulations established by the board shall not be required to be removed until the end of the fifth year after it becomes nonconforming unless acquired pursuant to section 5.

§ 5. Compensation for Removal of Signs.) The state highway commissioner is directed to acquire by purchase, gift, condemnation or exchange, signs lawfully erected which do not conform to this Act or the regulations established by the board. Owners of advertising structures, signs, displays or devices acquired by the commissioner pursuant to this section, and the owners of the land upon which such displays are located shall be paid just compensation for the reasonable

damages, if any, suffered by the reason of such removal before the end of the fifth year after such displays become nonconforming.

Despite any contrary provision of this Act, no sign shall be required to be removed unless at the time of removal there are sufficient funds, from whatever source, appropriated and available to this state with which to pay the just compensation required under this section, and unless at such time the federal funds allotted to this state under title 23, United States Code, section 131 or section 319 have been appropriated and are available to this state; provided, however, that signs erected after October 22, 1965, and prior to December 3, 1965, which are required to be removed to be in conformity with title 23, United States Code, section 131 of the rules and regulations promulgated thereunder the commissioner may acquire such signs in the manner provided herein and expend state highway funds for their acquisition.

§ 6. Highway Corridor Board—Members.) There is hereby established, to serve as an agency of the state and to perform the functions conferred upon it in this Act the highway corridor board, hereinafter referred to as the board. The board shall be composed of the following five members: the North Dakota state highway commissioner or his authorized agent; the director of the economic development commission or his authorized agent; the commissioner of agriculture or his authorized agent; a representative of the North Dakota outdoor advertising association to be designated by its president and to serve a term of four years; a representative of the North Dakota motel association designated by its president to serve a term of two years. At the expiration of the term of any member appointed to the board, his successor shall be appointed for a term of four years.

§ 7. Organization of the Board.) The permanent chairman of the board shall be the state highway commissioner or his duly authorized agent and the board may elect such other officers as it may deem appropriate from its membership. The majority of the board in meeting duly assembled, may perform and exercise all the duties and powers devolving on the board. Staffing for the committee shall be furnished by the state highway department, which shall also be responsible for furnishing it such other supplies and equipment as may be required. The state highway department shall furnish the committee with such maps, charts, plats, photographs and all other information and assistance as may be required by it, relating to the affected areas and its duties as hereinafter set forth. The board shall meet upon call of the chairman or upon written notice of two members of the board.

§ 8.) The appointed members of the board shall receive as compensation for their services the sum of twenty dollars for each day's attendance at its meetings and shall be compensated for meals, lodging and travel at the same rate and in the same manner as other state officials. Vouchers required to be submitted prior to reimbursement shall be approved by the chairman of the board and any and all compensation specified in this section shall be paid out of funds derived from the fees for permits issued for outdoor advertising structures. Any and all funds derived from the fees or permits not expended for the expenses of the board shall be placed in the highway fund for the purpose of enforcing this chapter and should there be a deficit for the purpose of enforcing this chapter or to meet expenses of the board highway funds may be expended to meet such deficit.

§ 9. Duties and Powers of the Board.) The board shall perform the following functions:

1. For the purpose of promoting the public health, safety, welfare, convenience, enjoyment and recreational value of the public highways, to protect the public investment in the state highway system and to preserve the natural beauty of lands bordering on the state highway system, the board may establish one or more zoning districts in the areas lying within six hundred and sixty feet of the nearest edge of the right-of-way of any highway which is a part of the state highway system and shall enact suitable regulations to carry out the purposes of this Act. These regulations shall be uniform in each district, but the regulations in one district may differ from those in other districts. No regulation or restriction, however, shall prohibit or prevent the use of land or buildings for farming or any of the normal incidents of farming.
2. These regulations shall be made in accordance with the comprehensive plan and design for any and all of the following purposes:
 - a. To protect and guide the development of nonurban areas.
 - b. To regulate and restrict the erection, construction, reconstruction, alteration, repair, or use of buildings and structures, the height, number of stories and size of buildings and structures, percentage of lot that may be occupied, size of courts, yards and other open spaces, the density of the population, and the location and use of buildings, structures, and the land for trade, industry, residence, or other purposes adjacent to highways outside of municipalities.

- c. To designate tracts of land adjacent to the state highway system which are necessary for the restoration, preservation and enhancement of scenic beauty.
 - d. To regulate the erection, construction or placing of any sign, display or device within six hundred and sixty feet of the nearest edge of the right-of-way and to adopt standards relating to size, lighting and spacing thereof in conformity with section 131 of title 23, United States Code, provided said regulations are not more restrictive than those provided thereunder.
 - e. To establish permits authorizing the erection, construction, placement, replacement, repair and maintenance of any outdoor sign, display, or device, which are within six hundred and sixty feet of the nearest edge of the right-of-way and visible from any place on the main traveled way of the state highway system; to establish a fee schedule for such permits and to prescribe regulations for the issuance thereof by the commissioner.
 - f. To determine unzoned commercial or unzoned industrial areas along the state highway system by agreement between the board and the secretary of transportation of the United States pursuant to title 23, United States Code, section 131.
3. The board shall review all rights now acquired by the state of North Dakota for the use and benefit of the state highway department pertaining to the right and control over the erection, location or maintenance of billboards, signs or any form of advertising within six hundred and sixty feet from the nearest edge of the right-of-way of the state highway system and should the board determine that such rights previously acquired are not necessary to accomplish the purpose of this Act then such rights shall be vacated pursuant to section 24-01-28 of the North Dakota Century Code.
 4. The board shall designate which tracts of land are necessary for the restoration, preservation and enhancement of scenic beauty adjacent to the state highway system. Said board shall accurately describe such areas and file such designation with the North Dakota state highway department. The commissioner shall acquire, improve and maintain said tracts of land the board deems necessary for the restoration, preservation and enhancement of scenic beauty adjacent to the state

highway system and said tracts of land may be beyond six hundred and sixty feet of the nearest edge of the right-of-way.

The interest in any land directed to be acquired and maintained under this section may be a fee simple or any lesser interest, as determined by the board to be reasonably necessary to accomplish the purposes of this section. Such acquisition may be by gift, purchase, exchange or condemnation under the right and power of eminent domain in the same manner that the commissioner may acquire right-of-way for construction, reconstruction, widening, alteration, changing, locating, relocating, aligning, realigning or maintaining a state highway.

§ 10. Rules and Regulations Have the Force and Effect of Law.) All determinations, rules, regulations, and promulgations by the board shall be filed with the commissioner and shall have the force and effect of law upon such filing.

§ 11. Unlawful Advertising.) Any advertising sign which violates the provisions of this Act or the regulations adopted by the board is hereby declared to be illegal. The state highway commissioner shall give thirty days' notice, by certified mail, to the owner thereof to remove the same if it is a prohibited sign, or cause it to conform to regulations promulgated by the board if it is an authorized sign. If the owner fails to act within thirty days as required in the notice or if the commissioner is unable to ascertain the ownership of the sign then such sign shall be deemed abandoned and the commissioner may remove such sign and to this end he may enter upon private property for the purpose of removing such sign without liability for his actions.

§ 12. Enforcement.) The state highway commissioner shall enforce the provisions of this Act and the regulations adopted by the board through the remedy of injunction or other appropriate legal proceedings, and shall not act except through such proceedings except as set forth in section 11. Neither the state highway commissioner nor any other agency nor political subdivision of this state shall by plantings obstruct the view, or in any other way interfere with the effectiveness of any sign legally in place under the provisions of this Act and the regulations adopted by the board.

§ 13. Hearings.) The board may propose resolutions, rules or regulations to be promulgated and shall hold public hearings thereon in the state capitol. Such proposed resolutions, rules or regulations to be promulgated shall be published in the official county newspaper of the county wherein tracts

of land which will be affected by such resolution, rule or regulation are located once each week for three consecutive weeks giving notice of the time, place and purpose of the hearings so that parties in interest and citizens shall have an opportunity to be heard.

§ 14. Publication of Resolutions, Rules or Regulations.) Following the public hearings, the board may adopt the proposed resolutions, rules or regulations with such changes as it may deem advisable. Forthwith at the adoption of any such resolution, rule or regulation, the board shall cause the same to be published for three consecutive weeks in the official newspaper of the county wherein tracts of land which will be affected by such resolutions, rules or regulations are located. Proof of such publication shall be filed in the office of the county auditor of the county wherein tracts of land which will be affected by such resolutions, rules or regulations are located and with the North Dakota state highway commissioner and thereupon the resolutions, rules or regulations shall take effect. Any such resolutions, rules or regulations may, from time to time, be amended or repealed by the board upon like proceedings as in the case of the adoption of resolutions, rules or regulations. Upon adoption of any resolutions, rules or regulations hereunder, the county auditor shall cause notice thereof filed with the register of deeds.

§ 15. Appeals to District Court.) Any person, or persons, jointly and severally, aggrieved by a decision of the board under this chapter, may appeal therefrom to the district court and to the supreme court in accordance with sections 28-32-15 through 28-32-21 inclusive, provided, however, that no other sections in chapter 28-32 shall be applicable to any proceedings of the board.

§ 16. Repeals.) All state laws and regulations promulgated thereunder governing outdoor advertising adjacent to the state highway system which are inconsistent herewith are hereby repealed.

§ 17. Severability Clause.) It is hereby declared to be the controlling legislative intent that if any provision of this Act or its application to any person be held invalid, the remainder of the Act and its application to others shall not be affected thereby.

§ 18. Amendment.) Subsection 37 of section 24-01-01.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37. "Right-of-way" shall mean a general term denoting land, property, or interest therein, acquired for or

devoted to highway purposes and shall include, but not be limited to publicly owned and controlled rest and recreation areas, sanitary facilities reasonably necessary to accommodate the traveling public, and tracts of land necessary for the restoration, preservation and enhancement of scenic beauty adjacent to the state highway system.

§ 19. 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 28, 1967.

CHAPTER 292

S. B. No. 44
(Forkner, Holand, Luick)
(From LRC Study)

REGULATION OF OPERATORS' LICENSES

AN ACT

To create and enact sections 39-01-01.1 and 39-06-33.1 of the North Dakota Century Code, providing for a declaration of legislative intent and the authority to suspend licenses for convictions of traffic violations resulting in the death or personal injury of another or serious property damage, and to provide the commissioner with the authority to suspend the licenses of juveniles, the courts with the authority to recognize out-of-state revocations and cancellations, the state toxicologist with the authority to perform blood tests on traffic fatalities and providing an appropriation therefor, and to amend and reenact subsections 2 and 9 of section 39-06-03, sections 39-06-04, 39-06-14, 39-06-19, 39-06-23, 39-06-24, 39-06-29, 39-06-30, 39-06-31, 39-06-32, 39-06-33, 39-06-37, 39-06-38, 39-06-39, and subsection 7 of section 39-06-40 of the North Dakota Century Code, relating to the issuance, suspension, expiration, renewal, and revocation of operator licenses and instructional permits and judicial proceedings relating thereto, and to repeal section 39-06-15 of the North Dakota Century Code, relating to appointments by the commissioner of agents to issue driver licenses.

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

§ 1.) Section 39-01-01.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

39-01-01.1. Declaration of Legislative Intent.) The legislature in adopting title 39 recognized that the development of a modern and integrated highway system which is so essential to safe and efficient highway transportation represents a large

investment of public funds. To ensure maximum public benefits from such investment, authority has been vested in appropriate agencies of government for the establishment, construction, maintenance, and operation of needed road facilities, within the limits of funds made available.

Additionally, the legislature recognizes that other functions of government, established pursuant to title 39 to govern the ownership and use of motor vehicles, also are supported by public funds and render important public services which contribute to the safe and efficient use of roads and streets. The responsibilities of state government include such functions as vehicle registration and titling, driver licensing, financial responsibility, police traffic supervision, accident investigation and reporting, and use of accident records, traffic operations, and similar functions conducted under motor vehicle laws affecting motor vehicles and their use.

In fulfilling these responsibilities, the legislature recognizes the necessity that individual prerogatives be considered secondary to the general welfare and so it is expected that the officials will adopt such reasonable policies, procedures, rules, and regulations as may be necessary, within the authority granted by law, and in so doing shall make appropriate use of recommended standards developed by recognized official groups to ensure a desirable level of uniformity throughout the state and with other states. Such uniformity is especially important in the use and application of uniform signs, signals, and markings.

It is expected, further, that the officials will cooperate with each other where such cooperation is essential, and not otherwise prescribed by law. Moreover, there is also need for more effective coordination of activities among all branches and levels of government in carrying out their respective traffic safety responsibilities, including the governor's office, the state legislature and city councils, the administrative, enforcement, and judicial officials of the state and its political subdivisions. In all matters of mutual concern, and where appropriate, cooperation is also encouraged among state officials, officials of other states and the federal government, and other responsible groups, both public and private.

Highway transportation is a dynamic force in our society and is influenced by new developments and changing public needs. To keep abreast of foreseeable adjustments, it is expected that the officials will engage in such research and planning as may be necessary and as may be provided for in this title. Such efforts should be conducted in cooperation with all interested public and private groups, and directed towards

the development of realistic traffic accident prevention programs to guide legislative decision and enlist public support in meeting immediate and potential needs.

In keeping with the policies herein enunciated, it is the intent of the legislature to equip each function with the necessary authority to maintain an adequate level of performance in all functions concerned with the ownership and use of motor vehicles, as they are established in title 39, consistent with the expanding needs of highway transportation, in order to protect the public safety, promote the general welfare, and advance the economy of the state.

§ 2. Amendment.) Subsections 2 and 9 of section 39-06-03 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

2. To any person whose license has been suspended in this state or in any other state during such suspension, nor to any person whose license has been revoked, except as provided in sections 39-06-35 and 39-06-36;
9. To any person who has been convicted four times of a misdemeanor involving the movements of a vehicle under the provisions of this chapter or the laws of this state relating to highways, within the preceding two-year period.

§ 3. Amendment.) Section 39-06-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-06-04. Instruction Permit.) Any person may apply to the commissioner for an instruction permit. The commissioner may in his discretion issue to the applicant an instruction permit which shall entitle the applicant while having such permit in his immediate possession to drive a motor vehicle upon the public highways for a period of six months when accompanied by a licensed operator who holds a license corresponding to the vehicle he operates and has had at least one year of driving experience and who is occupying a seat beside the driver, except in the event the permittee is operating a motorcycle. Any such instruction permit may be renewed or a new permit issued for an additional period.

§ 4. Amendment.) Section 39-06-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

***39-06-14. Licenses Issued to Operators—General.)** The commissioner shall, upon payment of a three dollar fee, issue to every applicant qualifying therefor an operator's license as applied for in the form prescribed by the commissioner, which license shall bear thereon a distinguishing number assigned to the licensee, the full name, date of birth, residence address, and a brief description of the licensee, and either a facsimile of the signature of the licensee or a space upon which the licensee shall write his usual signature with pen and ink immediately upon receipt of the license. No license shall be valid until it has been so signed by the licensee. For purposes of verification, an officer may require the licensee to write his signature in the presence of such officer.

Whenever the commissioner issues a license to a person under the age of eighteen years, such license shall be designated and clearly marked as a "provisional" license. Upon renewal as applicable to operator licenses, the commissioner may for reasonable cause as shown by its records, designate the renewal of the license as provisional. Otherwise a license in usual form shall be issued subject to other provisions of this chapter. Provisional licenses shall be subject to suspension by the commissioner without preliminary hearing upon a showing by the records or other sufficient evidence that the licensee has violated the provisions of this chapter or any other law of this state or municipal ordinance adopted by local authorities regulating the operation of motor vehicles on the highway.

§ 5. Amendment.) Section 39-06-19 of the 1965 Supplement to 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 birth date anniversary of the applicant. The commissioner may require an examination of an applicant as upon

***Note:** Section 1 of chapter 306, 1967 S.L., also amended section 39-06-14.

an original application. Every application for renewal of a license by an applicant under the age of twenty-one or over the age of seventy shall be accompanied by a certificate of examination from either the driver licensing or examining authorities or a physician or an optometrist, licensed in this or another state, containing a statement as to the corrected and uncorrected vision of the applicant. An application for a motor vehicle operator's license from an applicant applying for first license under the age of twenty-one may be accompanied by a certificate of examination from a physician or an optometrist, licensed in this or another state, containing a statement as to the corrected and uncorrected vision of the applicant, in lieu of the eye examination conducted by the driver licensing authorities. No certificate of examination shall be dated more than six months prior to the date of the driver license 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.

§ 6. Amendment.) Section 39-06-23 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-06-23. Definition of Suspension, Revocation, and Cancellation.) In this title, unless the context or subject matter otherwise requires:

1. Suspension means that the driver's license and privilege to drive a motor vehicle on the public highways are temporarily withdrawn but only during the period of such suspension.
2. Revocation means that the driver's license and privilege to drive a motor vehicle on the public highways are terminated and shall not be renewed or restored, except that an application for a new license may be presented and acted upon by the commissioner after the expiration of the period of revocation, which period shall not be less than thirty days nor more than one year.
3. Cancellation means that a driver's license is annulled and terminated because of some error or defect or because the licensee is no longer entitled to such license, but the cancellation of a license is without prejudice and application for a new license may be made at any time after such cancellation.

§ 7. Amendment.) Section 39-06-24 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-06-24. Authority to Cancel Licenses.) The commissioner may cancel any operator's license or permit upon determining that the licensee was not entitled to the issuance of a license under the laws of this state or that said licensee failed to give the required or correct information on his application or committed any fraud in making such application or the fee was in the form of an insufficient fund or no-account check. Upon such cancellation, the licensee must surrender the license or permit so canceled to the commissioner.

§ 8. Amendment.) Section 39-06-29 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-06-29. Courts to Report Records of Certain Convictions.) Every court or juvenile commissioner having jurisdiction over offenses committed under this title or any other law of this state or municipal ordinance regulating the operation of motor vehicles on highways, shall forward within ten days to the commissioner a record of the conviction of any person in said court, or a report of the action of the juvenile court in the case of a juvenile, for a violation of any of said laws other than regulations governing standing or parking, and may recommend the suspension of the operator's license or permit of the person so convicted or reported.

§ 9. Amendment.) Section 39-06-30 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-06-30. Conviction—Meaning and Effect.) For the purposes of subsection 9 of section 39-06-03 and sections 39-06-31 and 39-06-32 of the North Dakota Century Code the term "conviction" shall mean a final conviction for violation of state motor vehicle laws or for violation of municipal motor vehicle ordinances including offenses listed in section 39-06-31. Also, for the purposes of this chapter a forfeiture of bail or collateral deposited to secure a defendant's appearance in court, which forfeiture has not been vacated, shall be equivalent to a conviction.

§ 10. Amendment.) Section 39-06-31 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-06-31. Mandatory Revocation of Licenses.) The commissioner shall revoke forthwith the license of any operator upon receiving a record of such operator's conviction of any of the following offenses, when such conviction has become final:

1. Manslaughter or negligent homicide resulting from operation of a motor vehicle;

2. Any felony in the commission of which a motor vehicle is used;
3. Failure to stop and render aid as required under the laws of this state in the event of a motor vehicle accident resulting in the death or personal injury of another;
4. Perjury or the making of a false affidavit or statement under oath to the commissioner under this chapter or under any other law relating to the ownership or operation of motor vehicles;
5. Conviction, or forfeiture of bail not vacated, upon two charges of reckless driving, or aggravated reckless driving, committed within a period of eighteen months; or
6. Conviction of 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.

§ 11. **Amendment.)** Section 39-06-32 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-06-32. Authority to Suspend Licenses.) The commissioner may suspend the license of an operator without preliminary hearing upon a showing by its records or other sufficient evidence that the licensee:

1. Has committed an offense for which mandatory revocation of license is required upon conviction;
2. Has been convicted of serious offenses against traffic regulations governing the movement of vehicles with such frequency as to indicate a disrespect for traffic laws and a disregard for the safety of other persons on the highways;
3. Is an habitually reckless or negligent driver of a motor vehicle;
4. Is incompetent to drive a motor vehicle;
5. Has permitted an unlawful or fraudulent use of his license;
6. Has committed an offense in another state which if committed in this state would be grounds for suspension or revocation; or
7. Has been convicted four times of a misdemeanor involving the movement of a vehicle under the provisions of this chapter or the laws of this state relating to highways, within the preceding two-year period.

§ 12. **Amendment.**) Section 39-06-33 of the 1965 Supplement to 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. In the case of suspensions under the authority of subsection 6 of section 39-06-32 of the North Dakota Century Code, the operator shall first be given notice of intention to suspend and shall have ten days from the date of receipt of such notice to request a hearing upon the proposed order of suspension. Pending such hearing, which shall be conducted in the same manner as other hearings provided for in this section, the suspension of the license of the operator demanding the hearing shall be held in abeyance.

§ 13.) Section 39-06-33.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

39-06-33.1. Authority to Suspend Licenses — Show Cause Order Required.) The commissioner may suspend the license of an operator upon a showing by its records or other sufficient evidence that the licensee has been convicted by a court of competent jurisdiction for violation of the provisions of this title or any other law of this state or municipal ordinance regulating the operation of motor vehicles on highways where it appears from the department records that the violation for which he was convicted contributed in causing an accident resulting in the death or serious personal injury, requiring professional medical care of another, or serious property damage. Prior to suspending the license of any person as authorized in this section, the commissioner shall immediately notify the licensee in writing to show cause, within twenty days, why his license should not be suspended or revoked. Upon the request of a licensee the commissioner 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 may, for good cause, either suspend or revoke the license of such person.

§ 14. Amendment.) Section 39-06-37 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-06-37. Surrender and Return of License.) The commissioner upon suspending or revoking a license shall require that such license shall be surrendered to and be retained by the commissioner, except that at the end of the period of suspension such license so surrendered shall be returned to the licensee. If any person fails to return to the commissioner any license or permit which has been canceled, suspended, or revoked, the commissioner shall direct any highway patrolman or peace officer to secure possession thereof and return the same to the commissioner. If any person fails to return to the commissioner any license or permit which has been canceled, suspended, or revoked, the commissioner may determine that the period of suspension, revocation, or cancellation did not commence until the license or permit was surrendered and was in the possession of the commissioner.

§ 15. Amendment.) Section 39-06-38 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-06-38. No Operation Under Foreign License During Suspension or Revocation in This State.) Any resident or non-resident whose operator's or chauffeur's license or right or privilege to operate a motor vehicle in this state has been suspended or revoked as provided in this title shall not operate a motor vehicle in this state under a license, permit, or registration certificate issued by any other jurisdiction or otherwise during such suspension or after such revocation until a new license is obtained when and as permitted under this title.

§ 16. Amendment.) Section 39-06-39 of the 1965 Supplement to 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. Only in cases wherein the license of such person was suspended under authority of subsection 2 or 3 of section 39-06-32, the serving and 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. No ex parte stay orders shall be issued in any proceedings under this section. 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 determine whether there were reasonable grounds under the statutes for the determination of the commissioner. 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.

§ 17. Amendment.) Subsection 7 of section 39-06-40 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

7. To do any act forbidden or fail to perform any act required by this title.

§ 18. Authority to Suspend Licenses of Juveniles.) The highway commissioner may suspend the license of a juvenile without preliminary hearing when the report of the action of a juvenile court is forwarded to the commissioner under the provisions of section 39-06-29, and such report indicates that there has been a commission of those offenses listed under section 39-06-31.

§ 19. State Toxicologist to Examine Blood Specimens of Fatalities in Accidental Deaths Involving a Motor Vehicle.) In cases of death occurring on or after July 1, 1967, and prior to July 1, 1969, resulting from a motor vehicle accident or other unnatural death occurring in a motor vehicle, the county coroner shall require that a blood specimen of at least 20 cc. be withdrawn from the body of the decedent within 24 hours after his death by a coroner, coroner's physician, or other qualified person, prior to embalming. The blood specimens

shall be collected and preserved by methods and techniques established by the state toxicologist. The blood so drawn shall be sent to the state toxicologist for analysis for alcohol, carbon monoxide, and other drug content. The state toxicologist shall keep a record of all such examinations to be used for statistical purposes. The results of the examinations referred to in this section shall not be admissible in evidence in any action of any kind in any court or before any tribunal, board, agency, or person, but shall be used only for statistical purposes. The cumulative results of the examinations, without identifying the individuals involved, shall be disseminated to interested state and local officials and made public by the state toxicologist. Any person drawing blood and any person making any examination of blood under the terms of this Act shall be immune from all liability, civil or criminal, that might otherwise be incurred or imposed. The individual drawing the blood sample shall be paid a fee of five dollars by the state toxicologist for each acceptable blood specimen submitted for analysis under the requirements of this Act.

§ 20. Appropriation.) The sum of \$5,000.00, or so much thereof as may be necessary, is appropriated to the state toxicologist for administering the provisions of section 20 of this Act.

§ 21. Repeal.) Section 39-06-15 of the 1965 Supplement to the North Dakota Century Code is hereby repealed.

Approved March 14, 1967.

CHAPTER 293

S. B. No. 145
(Goldberg)

PARKING PRIVILEGES FOR HANDICAPPED

AN ACT

To require the motor vehicle registrar to issue special parking privilege permits to handicapped people and to repeal section 40-05-02.1 of the North Dakota Century Code, relating to parking privileges for the handicapped, and providing a penalty.

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

§ 1. Parking Privileges for Physically Handicapped.) Any physically handicapped person who displays prominently upon an automobile parked by him or under his direction and for his use, the distinguishing certificate or insignia specified in

this Act shall be entitled to courtesy in the parking of such automobile. Provided, however, that any municipality may, by ordinance, prohibit parking on any street or highway for the purpose of creating a fire lane, or to provide for the accommodation of heavy traffic during morning and afternoon rush hours, and the privileges extended to such handicapped persons shall not apply on streets or highways where and during such times as parking is prohibited.

§ 2. Definition of Physically Handicapped.) Physically handicapped as used in this Act shall include any person who has sustained an amputation or material disability of either or both legs, or who has been otherwise disabled in any manner rendering it difficult and burdensome for him to walk.

§ 3. Identifying Certificate.) The motor vehicle registrar shall issue without charge a special identifying certificate or insignia for a marked motor vehicle to any physically handicapped applicant upon submission by the applicant of a certificate issued by a qualified physician to the motor vehicle registrar that he is a physically handicapped person within the meaning of section 2 of this Act. The motor vehicle registrar shall determine the form and size of the certificate or insignia and shall promulgate rules and regulations governing the issuance thereof.

§ 4. Parking Privileges — Revocation — Penalty.) If the police of any municipality or any other political subdivision shall find that such certificate or insignia is being improperly used, they may report to the motor vehicle registrar any such violation and the motor vehicle registrar may, in his discretion, remove the privilege. Any person who is not physically handicapped and who exercises the privilege granted a physically handicapped person under section 1 of this Act shall be guilty of a misdemeanor.

§ 5. Repeal.) Section 40-05-02.1 of the 1965 Supplement to the North Dakota Century Code is hereby repealed.

Approved March 14, 1967.

CHAPTER 294

H. B. No. 573
(Solberg(2), Opedahl)

POWERS AND DUTIES OF MOTOR VEHICLE REGISTRAR

AN ACT

To amend and reenact section 39-02-03 of the North Dakota Century Code, relating to the powers and duties of the motor vehicle registrar.

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

§ 1. **Amendment.**) Section 39-02-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-02-03. Powers and Duties of Registrar and Department.) The registrar, subject to the approval of the governor, may adopt and enforce such administrative rules and regulations and designate such agencies and establish such branch offices as may be necessary to carry out the laws applicable to his office and department. He shall provide suitable forms for applications, registration cards, license number plates, and all other forms requisite for the operation of his office and department, and shall prepay all transportation charges thereon. The department and the officers thereof shall enforce the provisions of all laws pertaining to the registrar and the motor vehicle department.

Approved February 21, 1967.

CHAPTER 295

S. B. No. 43
(Forkner, Holand, Luick)
(From LRC Study)

DUTIES AND PERSONNEL OF HIGHWAY PATROL

AN ACT

To create and enact subsection 12 of section 39-03-09 and to amend and reenact sections 39-03-02, 39-03-03, 39-03-04, 39-03-07, subsection 2 of section 39-03-13, and section 39-03A-18 of the North Dakota Century Code, relating to the powers of the highway patrol, the appointment, removal, and duties of the superintendent, assistant superintendent, and patrolmen, the qualifications of patrolmen, the powers and salary of the superintendent, and to the compulsory termination of employment of patrolmen.

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

§ 1. **Amendment.)** Section 39-03-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-03-02. State Highway Patrol Superintendent Appointed by Governor—Duties.) The governor shall appoint a state highway patrol superintendent who shall enforce the provisions of the laws of this state relating to the protection and use of the highways in this state and the operation of motor and other vehicles upon such highways.

§ 2. **Amendment.)** Section 39-03-03 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-03-03. Patrolmen — Appointment — Removal — Duties.) The superintendent with the approval of the governor may appoint an assistant superintendent and patrolmen who, together with the superintendent, shall constitute the highway patrol. Such patrolmen shall enforce the provisions of the laws of this state relating to the protection and use of highways and shall patrol such highways and cooperate with sheriffs and police in enforcing the laws regulating the operation of vehicles and the use of highways. Any patrolman, except a temporary appointee, shall be subject to removal for cause only by the state highway patrol hearing board, which shall consist of the governor, secretary of state and attorney general. Except, however, the superintendent shall have the authority to appoint and remove the assistant superintendent at his discretion. Any such action taken by the superintendent shall not, how-

ever, affect the status of such persons as highway patrolmen. Notwithstanding any other provisions of this chapter, the superintendent, upon relieving the assistant superintendent of the duties of that position, may reduce him in rank to the position of captain. The governor shall be chairman of such board. The procedure which shall govern the removal of patrolmen and the appointment and removal of temporary appointees, shall be as follows:

1. Removal proceedings may be initiated by the filing of written charges against the patrolman sought to be removed, verified by the person making the same, which charges shall be filed with the governor. If, upon the filing of such charges, the governor believes that they constitute grounds for removal, he shall order a hearing thereon before the highway patrol hearing board, and shall fix the time for such hearing, otherwise he shall dismiss such charges;
2. Not less than fifteen days before the time set for the hearing, notice thereof, signed by the chairman, together with a copy of the charge or charges, shall be served on the patrolman accused, by personal service if his whereabouts is known, within the state of North Dakota, otherwise by publication in the manner provided by law for the service of summons in a civil action. The highway patrol hearing board shall have authority to hear such charge or charges and make an appropriate order in the proceedings, which order shall be filed with the governor, and, if it shall be an order of removal, it shall be served upon the person removed either personally or by registered or certified mail within ten days after its issuance;
3. In the event the governor orders a hearing, he may, at his discretion, suspend such accused patrolman, pending the final determination of the charges, and in case the charges are dismissed, such patrolman shall be reinstated without loss of salary during the period of suspension;
4. Any patrolman, who is dismissed by order of the highway patrol hearing board, may appeal to the district court of Burleigh county, which appeal shall be taken and determined in the manner provided by chapter 28-32 of the title Judicial Procedure, Civil; and
5. Each patrolman appointed shall be deemed a temporary appointee for a period of twelve months, during which period he shall be placed under probationary training and service. At the end of such training period, such temporary appointee shall be automatically dismissed

unless he receives a permanent appointment which shall be approved by the superintendent. During such training period, such temporary appointee shall be subject to dismissal at the will of the superintendent.

§ 3. **Amendment.)** Section 39-03-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-03-04. Qualifications of Patrolmen—Veterans Have Preference.) No person shall be appointed as a patrolman unless he has the following qualifications:

1. Is not less than twenty-one and not more than thirty-three years of age on the date of his appointment;
2. Has passed such physical examination and such other qualification test as may be required by the superintendent;
3. Is of good moral character and temperate habits; and
4. Has been a citizen of the United States for not less than two years prior to his appointment.

Preference for appointment shall be given at all times to honorably discharged veterans and citizens of the state of North Dakota, and all appointments shall be made without regard to any political party affiliation of the applicant.

§ 4. **Amendment.)** Section 39-03-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-03-07. Salary of Superintendent—Limitations.) The salary of the superintendent shall be in such sum as shall be appropriated, from time to time, by the legislative assembly. The salary of the assistant superintendent and each patrolman shall be fixed by the superintendent, and all salaries shall be paid monthly.

§ 5. **Amendment.)** Subsection 12 of section 39-03-09 of the North Dakota Century Code is hereby created and enacted to read as follows:

12. To exercise general police powers over all violations of law committed in their presence upon any highway and within the highway right-of-way or when in pursuit of any actual or suspected law violator.

§ 6. **Amendment.)** Subsection 2 of section 39-13-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. He may designate ranks, fix salaries with appropriate allowances for those ranks, and establish promotional procedures;

§ 7. **Amendment.)** Section 39-03A-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-03A-18. Compulsory Termination of Employment.) Except as provided in this section, whenever any contributor shall reach the age of sixty years, his employment with the patrol shall be terminated forthwith. If such contributor has at least twenty-five years accumulated deductions he shall be entitled to receive from the fund, without application therefor, the monthly retirement allowance provided for in section 39-03A-12. If such contributor has at least fifteen years but less than twenty-five years accumulated deductions he shall be entitled to receive from the fund, without application therefor, the monthly optional retirement allowance provided for in section 39-03A-14. If such contributor has less than fifteen years accumulated deductions he shall be entitled to receive from the fund, without application therefor, the severance allowance provided for in section 39-03A-17, except that a contributor who was a member of the North Dakota highway patrol January 1, 1959, shall have the following option:

1. A contributor who shall have reached compulsory retirement age with less than twenty years service and who has terminated his employment with the patrol shall be eligible for a monthly retirement equal to that portion of the retirement benefits under section 39-03A-14 as his total accumulations may bear to what the accumulations would have been had he completed twenty years service at the time of his retirement.

Approved March 15, 1967.

CHAPTER 296

S. B. No. 215
(Holand)

POWERS OF HIGHWAY PATROL

AN ACT

To amend and reenact subsection 4 of section 39-03-09 of the North Dakota Century Code, relating to the powers of the highway patrol, and to repeal section 39-03-10 of the North Dakota Century Code, relating to the inspection of motor vehicles by the highway patrol.

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

§ 1. Amendment.) Subsection 4 of section 39-03-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. To facilitate compliance with the provisions of this title, to require the driver of a vehicle to stop and exhibit his operator's license and the registration cards issued for the vehicle, if any are required, and to submit to an inspection and test of the equipment of such vehicle;

§ 2. Repeal.) Section 39-03-10 of the North Dakota Century Code is hereby repealed.

Approved March 4, 1967.

CHAPTER 297

H. B. No. 570
(Solberg(2), Opedahl)

MOTOR VEHICLE REGISTRATION

AN ACT

To amend and reenact section 39-04-06 of the North Dakota Century Code, relating to the elimination of the term thirty days after notification by regular mail.

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 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. When payment of the registration fee is made the registration shall be renewed.

Approved February 21, 1967.

CHAPTER 298

S. B. No. 210

(Goldberg, Nasset, Lowe, Jacobson, Litten)

DUE DATE AND DELINQUENCY OF MOTOR VEHICLE REGISTRATION FEES

AN ACT

To amend and reenact section 39-04-15 of the North Dakota Century Code, relating to motor vehicle registration fees.

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

§ 1. Amendment.) Section 39-04-15 of the 1965 Supplement to 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 regis-

tration 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 January second and December thirty-first shall become delinquent upon the expiration of ten days after the same becomes due.

Approved February 24, 1967.

CHAPTER 299

H. B. No. 665
(Burke, Schaffer)

APPLICATION FOR REGISTRATION

AN ACT

To amend and reenact section 39-04-17 of the North Dakota Century Code, relating to a certificate of the notary public showing compliance with the motor vehicle registration laws.

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

§ 1. **Amendment.)** Section 39-04-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-04-17. Certificate of Notary Showing Compliance with Registration Is Prima Facie Evidence.) The possession of a certificate made out by the notary public who took the acknowledgment of the application when the vehicle was first registered or required to be registered under the laws of this state, where such certificate shows the date of application, the make and model of the motor vehicle, the manufacturer's number of the motor vehicle which such application describes, and further shows that such notary public personally mailed the application with the remittance fee, shall be prima facie evidence of compliance with the motor vehicle law with reference to the motor vehicle therein described, for a period of thirty days from the date of such application.

Approved February 21, 1967.

CHAPTER 300

H. B. No. 648
(Giffey, DeKrey)

DATE OF NONREGISTRATION OF MOTOR VEHICLES USED
FOR HARVESTING BY NONRESIDENTS

AN ACT

To amend and reenact subdivision h of subsection 2 of section 39-04-18 of the North Dakota Century Code, relating to the change of date of the harvest of agricultural products.

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

§ 1. Amendment.) Subdivision h of subsection 2 of section 39-04-18 is hereby amended and reenacted to read as follows:

- h. Motor vehicles owned and operated by nonresidents engaged in harvest of agricultural products from July fifteenth through November fifteenth of any one year, provided, however, that such motor vehicles have displayed thereon a decal or other means of identification issued by the motor vehicle registrar upon payment of a fee of twenty-five dollars.

Approved February 21, 1967.

CHAPTER 301

H. B. No. 900
(Tweten, Moquist)

MOTOR VEHICLE REGISTRATION FEES

AN ACT

To amend and reenact subdivision b of subsection 2 and subsection 5 of section 39-04-19 of the North Dakota Century Code, relating to motor vehicle registration fees.

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

§ 1. Amendment.) Subdivision b of subsection 2 of section 39-04-19 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

- b. School buses and trucks or combination trucks and trailers, including commercial and noncommercial trucks, except those trucks or combinations of trucks and

trailers which qualify for registration under subsection 5 of this section:

Gross Weights	Years Registered			8th and subsequent years
	1st, 2nd, and 3rd years	4th and 5th years	6th and 7th years	
0- 4,000	\$18.00	\$14.50	\$10.75	\$10.00
4,001- 6,000	23.25	18.50	14.00	10.00
6,001- 8,000	28.50	22.75	17.00	10.00
8,001-10,000	33.75	27.00	20.25	11.75
10,001-12,000	39.00	31.25	23.50	13.75
12,001-14,000	44.25	35.50	26.50	15.50
14,001-16,000	49.50	39.50	29.75	17.25
16,001-18,000	54.75	43.75	32.75	19.25
18,001-20,000	60.00	48.00	36.00	21.00
20,001-22,000	65.25	52.25	39.25	22.75
22,001-24,000	70.50	56.50	42.25	24.75

Gross Weights	1st, 2nd, 3rd and 4th years	5th, 6th, 7th, 8th and 9th years	10th and subsequent years
26,001-28,000	190.00	152.00	133.00
28,001-30,000	225.00	180.00	157.50
30,001-32,000	260.00	208.00	182.00
32,001-34,000	295.00	236.00	206.50
34,001-36,000	330.00	264.00	231.00
36,001-38,000	365.00	292.00	255.50
38,001-40,000	400.00	320.00	280.00
40,001-42,000	435.00	348.00	304.50
42,001-44,000	470.00	376.00	329.00
44,001-46,000	505.00	404.00	353.50
46,001-48,000	540.00	432.00	378.00
48,001-50,000	575.00	460.00	402.50
50,001-52,000	610.00	488.00	427.00
52,001-54,000	645.00	516.00	451.50
54,001-56,000	680.00	544.00	476.00
56,001-58,000	715.00	572.00	500.50
58,001-60,000	750.00	600.00	525.00
60,001-62,000	785.00	628.00	549.50
62,001-64,000	820.00	656.00	574.00
64,001-66,000	855.00	684.00	598.50
66,001-68,000	890.00	712.00	623.00
68,001-70,000	925.00	740.00	647.50
70,001-72,000	960.00	768.00	672.00
72,001-73,280	995.00	796.00	696.50

§ 2. Amendment.) Subsection 5 of section 39-04-19 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

5. Trucks or combinations of trucks and trailers which are used as farm vehicles only, shall be entitled to registration pursuant to the following fee schedule and the provisions of this subsection. Farm vehicles shall be considered, for the purpose of this subsection, as trucks or combinations of trucks and trailers owned and operated by a bona fide resident farmer who uses such vehicles 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.

Gross Weights	Years Registered			8th and subsequent years
	1st, 2nd, and 3rd years	4th and 5th years	6th and 7th years	
0- 4,000	\$ 18.00	\$ 14.50	\$ 10.75	\$ 10.00
4,001- 6,000	23.25	18.50	14.00	10.00
6,001- 8,000	28.50	22.75	17.00	10.00
8,001-10,000	33.75	27.00	20.25	11.75
10,001-11,999	39.00	31.25	23.50	13.75
12,000-14,000	44.25	35.50	26.50	15.50
14,001-16,000	49.50	39.50	29.75	17.25
16,001-18,000	54.75	43.75	32.75	19.25
18,001-20,000	60.00	48.00	36.00	21.00
20,001-22,000	65.25	52.25	39.25	22.75
22,001-24,000	70.50	56.50	42.25	24.75
24,001-26,000	75.50	60.50	45.25	26.75
26,001-28,000	85.50	68.50	51.25	30.75
28,001-30,000	95.50	76.50	57.25	34.75
30,001-32,000	105.50	84.50	63.25	38.75
32,001-34,000	115.50	92.50	69.25	42.75
34,001-36,000	125.50	100.50	75.25	46.75
36,001-38,000	135.50	108.50	81.25	50.75
38,001-40,000	145.50	116.50	87.25	54.75
40,001-42,000	155.50	124.50	93.25	58.75
42,001-44,000	165.50	132.50	99.25	62.75
44,001-46,000	175.50	140.50	105.25	66.75
46,001-48,000	185.50	148.50	111.25	70.75
48,001-50,000	195.50	156.50	117.25	74.75
50,001-52,000	205.50	164.50	123.25	78.75
52,001-54,000	215.50	172.50	129.25	82.75
54,001-56,000	225.50	180.50	135.25	86.75
56,001-58,000	235.50	188.50	141.25	90.75

Gross Weights	Years Registered		
	1st, 2nd, 3rd and 4th years	5th, 6th, 7th, 8th and 9th years	10th and subsequent years
58,001-60,000	\$750.00	\$600.00	\$525.00
60,001-62,000	785.00	628.00	549.50
62,001-64,000	820.00	656.00	574.00
64,001-66,000	855.00	684.00	598.50
66,001-68,000	890.00	712.00	623.00
68,001-70,000	925.00	740.00	647.50
70,001-72,000	960.00	768.00	672.00
72,001-73,280	995.00	796.00	696.50

Approved March 15, 1967.

CHAPTER 302

S. B. No. 68

(Forkner, Roen, Chesrown, Larsen)

TRANSFER OF REGISTRATION PLATES

AN ACT

To amend and reenact section 39-04-36 of the 1965 Supplement to the North Dakota Century Code, relating to the transfer of registration and number plates of motor vehicles.

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

§ 1. Amendment.) Section 39-04-36 of the 1965 Supplement to 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 a vehicle registered for a gross weight in excess of 36,000 pounds 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 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 26,000 pounds for the unexpired portion of the registration period. Such vehicle, however, shall not be operated upon the highways of this state until property licensed therefor under the provisions of this chapter.

Approved February 22, 1967.

CHAPTER 303

H. B. No. 701
(Weber, Wilkie)

CREDITS ON DESTROYED VEHICLES

AN ACT

To amend and reenact section 39-04-44 of the North Dakota Century Code, relating to credits on destroyed vehicles.

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

§ 1. **Amendment.)** Section 39-04-44 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-04-44. Credits on Destroyed Vehicle.) Any owner of a motor vehicle licensed or taxed in this state, if such vehicle is permanently destroyed, may deduct from any license fee or tax thereafter due from such owner during the same year or following year upon another motor vehicle an amount equal to the unused portion of the fee or tax paid upon the vehicle so destroyed, computed pro rata by the month, one-twelfth of the annual fee or tax paid for each month of the year remaining after the month in which such vehicle was so destroyed.

Approved February 24, 1967.

CHAPTER 304

H. B. No. 580
(Solberg(9), Mueller)

HIGHWAY TAX DISTRIBUTION FUND

AN ACT

Relating to a highway tax distribution fund, and to amend and reenact sections 39-04A-02, 39-04-39, 57-40.1-07, 57-52-11, 57-53-09, and 57-54-14, relating to motor vehicle and fuels taxes and to repeal sections 39-04-39.1 and 57-54-15 of the North Dakota Century Code, relating to use and fuel taxes.

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

§ 1. **Amendment.)** Section 39-04A-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-04A-02. Levy of Additional Annual Fee—Administration—Rules and Regulations.) There is hereby levied on motor vehicles engaged in the transportation of property, an annual fee which shall be in addition to the license fee paid under the requirements of section 39-04-19 for the licensing of such motor vehicles. Such fees shall be due on January first of each year and shall be payable to the motor vehicle registrar and deposited with the state treasurer to the credit of the highway tax distribution fund. The provisions of this chapter shall be administered by the motor vehicle registrar, who shall have authority to promulgate rules and regulations to carry out the provisions of the chapter.

§ 2. **Amendment.)** Section 39-04-39 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-04-39. Distribution of Registration Fees Collected.) Any moneys in the registration fund accruing from license fees or from other like sources, in excess of the amount required to pay salaries and other necessary expenses, in accordance with the legislative assembly's appropriation for such purposes, shall be promptly deposited with the state treasurer who shall place such moneys in a highway tax distribution fund which shall be distributed in the manner as prescribed by law.

§ 3. **Amendment.)** Section 57-40.1-07 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

***57-40.1-07. Distribution and Use of Revenue.)** Fifty percent of the moneys accruing by virtue of section 57-40.1-02, promptly upon collection, shall be remitted by the motor vehicle registrar to the state tax commissioner and by him shall be promptly paid to the state treasurer to be transferred and credited to the general fund and fifty percent to the highway tax distribution fund.

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

57-52-11. Distribution of Tax.) All money collected by the state auditor under the provisions of this chapter shall be promptly transferred to the state treasurer who shall deposit such moneys in a highway tax distribution fund which shall be distributed in the manner as prescribed by law.

§ 5. Amendment.) Section 57-53-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-53-09. Distribution of Funds.) All taxes, license fees, penalties and interest collected under this chapter, except for the fines levied upon conviction for violation hereof, and except for license fees collected pursuant to chapter 57-52, shall be promptly transferred to the state treasurer who shall deposit such moneys in a highway tax distribution fund which shall be distributed in the manner as prescribed by law.

§ 6. Amendment.) Section 57-54-14 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-54-14. Allocation of Fuel Tax.) The state treasurer shall credit to the highway tax distribution fund the motor fuel tax, including interest received thereon, collected under the provisions of this chapter. Such highway tax distribution fund shall be distributed in the manner as prescribed by law.

§ 7. Highway Tax Distribution Fund—State Treasurer to Make Allocation to Counties.) A highway tax distribution fund is hereby created as a special fund in the state treasury into which shall be deposited the moneys available by law from collections of motor vehicle registration and related fees, fuels taxes, special fuels taxes, use taxes, and special fuels excise taxes. Any moneys in the highway tax distribution fund shall be transferred on a calendar quarter basis by the state treasurer, as follows:

***Note:** Section 57-40.1-07 was repealed by sections 13 of chapters 462 and 463, 1967 S.L. The allocation and distribution formula for motor vehicle excise taxes is contained in sections 9 of chapters 462 and 463, 1967 S.L.

1. Sixty-three percent of such moneys shall be transferred quarterly to the state highway department and placed in a state highway department fund.
2. Thirty-seven percent of such moneys shall be transferred 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.
 - a. Except as limited in subdivision b of this subsection twenty-seven percent of sums received by each county shall be deposited in a special municipal highway fund of such county and shall be distributed by the county treasurer to the incorporated cities and villages within such county on the basis of the per capita population of all of the incorporated cities and villages situated within such county as determined by the last official regular or special federal census or the census taken in accordance with the provisions of chapter 40-02 of the North Dakota Century Code in case of a city or village incorporated subsequent to such census for use for road and street purposes.
 - b. Seventy-three percent of sums received by each county shall be set aside in a separate fund under the jurisdiction and control of the board of county commissioners and shall be appropriated and applied solely for highway purposes except in the event such seventy-three percent of the sums received by a county shall be less than the amount of funds received by such county as the county share of motor vehicle registration fees, motor fuels tax, special fuels tax, special fuels excise tax and motor vehicle use tax for the fiscal year ending June 30, 1965, then the amount set aside in a separate fund under the jurisdiction of the board of county commissioners shall be equal to the amount received from such sources during the fiscal year ending June 30, 1965, and that allocated in the municipal highway fund in subdivision a of this subsection shall be reduced accordingly.

§ 8. **Repeal.)** Sections 39-04-39.1 and 57-54-15 of the 1965 Supplement to the North Dakota Century Code are hereby repealed.

Approved March 1, 1967.

CHAPTER 305

S. B. No. 185
(Holand)

TIME OF REGISTRATION OF MOTOR VEHICLES

AN ACT

To create and enact subsection 6 of section 39-05-02 of the North Dakota Century Code, relating to vehicles exempt from registration and to amend and reenact subsection 1 and subdivision b of subsection 2 of section 39-04-18 of the North Dakota Century Code, relating to the registration of motor vehicles.

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

§ 1. Amendment.) Subsection 1 of section 39-04-18 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Except as provided in this section, every motor vehicle as defined in subsection 32 of section 39-01-01, operated or intended to be operated upon any highway, road, or street in this state shall be registered annually with the motor vehicle registrar. Any vehicle being operated on the highways, roads, or streets of this state shall display such license plates as are furnished by the motor vehicle registrar upon the payment of the fees prescribed in this chapter.

Upon satisfactory proof to the registrar that a motor vehicle owned by a resident of this state was not used upon any of the highways of this state in any one or more years, such motor vehicle may be registered upon payment of the registration fee for the current year, and upon further payment of five dollars for each calendar year for which the vehicle was not registered and no license fee was paid therefor.

Any resident of the state of North Dakota, serving in the armed forces of the United States for a period of time greater than one year, may relicense any motor vehicle owned by him without paying any fee for the intervening years when such vehicle was not licensed, nor any penalties therefor, providing such veteran shows by suitable affidavit that such vehicle was not in use during any year in which it was not licensed. Such vehicle shall be licensed for the license fee applicable to the month of the year in which application for license is made.

§ 2. **Amendment.**) Subdivision b of subsection 2 of section 39-04-18 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

- b. Motor vehicles owned and operated by Indian mission schools or by this state or any of its agencies, departments or political subdivisions, including school districts possessing a motor vehicle or vehicles used for driver education instruction, provided, however, that such vehicles shall display license plates provided by the motor vehicle registrar at actual cost.

§ 3.) Subsection 6 of section 39-05-02 of the North Dakota Century Code is hereby created and enacted to read as follows:

6. Vehicles in possession of school districts, used for driver education instruction.

Approved March 14, 1967.

CHAPTER 306

S. B. No. 45
(Forkner, Holand, Luick)
(From LRC Study)

ISSUANCE OF LICENSES TO OPERATE MOTOR VEHICLES

AN ACT

To amend and reenact section 39-06-14 of the North Dakota Century Code, relating to the issuance of licenses to operate motor vehicles.

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

§ 1. **Amendment.**) Section 39-06-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

***39-06-14. Licenses Issued to Operators—General—Classified Driver's License.)** The commissioner shall, upon payment of a three dollar fee by applicants, issue to every applicant qualifying therefor an operator's license as applied for in the form prescribed by the commissioner, which license shall bear thereon a distinguishing number assigned to the licensee, the full name, date of birth, residence address, and a brief description of the licensee, and either a facsimile of the signature of the licensee or a space upon which the licensee shall write his usual signature with pen and ink immediately upon receipt

***Note:** Section 4 of chapter 292, 1967 S.L., also amends section 39-06-14.

of the license. No license shall be valid until it has been so signed by the licensee. For purposes of verification, an officer may require the licensee to write his signature in the presence of such officer.

Effective January 1, 1968, all applicants holding a valid North Dakota driver's license making application for a renewal of such license, shall be issued a class 3 license without being subjected to an examination as herein provided. Effective January 1, 1968, all applicants, except those holding a valid North Dakota driver's license who will be issued a class 3 license, applying for issuance of driver licenses shall be issued a classified license after having been required to submit to an examination in the type of motor vehicle or combination of vehicles for which license is desired and which license shall authorize the holder to drive the vehicles set forth in such class as follows:

- Class 1. Any vehicle or combination of vehicles except vehicles under class four.
- Class 2. Any vehicle or combination of vehicles except:
 - a. Vehicles towing another vehicle when the vehicle being towed has a gross weight in excess of six thousand pounds; and
 - b. Vehicles under class four.
- Class 3. Any two-axle or tandem-axle vehicle except:
 - a. A truck tractor as defined in subsection 70 of section 39-01-01;
 - b. A bus designed to carry more than fifteen passengers;
 - c. A two-axle or tandem-axle vehicle when towing another vehicle when the vehicle being towed has a gross weight in excess of six thousand pounds; and
 - d. Vehicles under class 4.

Provided, however, an operator with a class 3 license may operate a farm tractor towing another vehicle having a gross weight in excess of six thousand pounds.

- Class 4. Any motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground.

Provided, however, that before one can be examined and licensed to operate any vehicle falling under class 4, he must first be licensed to operate a motor vehicle under either class

1, 2, or 3. Upon passing an examination to operate a vehicle under class 4, the commissioner or his duly authorized agent shall certify the class 1, 2, or 3 license of the successful examinee, whichever the case may be, by stamping or otherwise indicating on the license an authorization to operate vehicles falling under class 4.

The department may accept a certificate of driving experience in lieu of a driving test on class 1 or 2 applications, for those persons licensed to operate and who have had experience operating motor vehicles in such classes, when such certificate is issued by an employer of the applicant and the applicant has first met the other examination requirements for the license for which he is applying. Such certificate may be submitted as evidence of the applicant's experience or training in the operation of the types of equipment covered by the license for which he is applying.

Any holder of a classified license who drives a motor vehicle otherwise than as permitted by the class of license issued to him shall be deemed to be driving a motor vehicle without being duly licensed by this chapter. The holder of a classified license who desires to obtain a different class license in one of the classes provided by this chapter must exchange or renew such license. The commissioner may impose such rules and regulations as he may deem necessary with respect to such renewals or exchanges for the proper administration of this chapter. No class 1 or 2 license shall be issued to any person under eighteen years of age. If any holder of a license issued pursuant to this chapter suffers permanent loss of use of a hand, arm, foot, leg, or eye, he shall, before operating any motor vehicle or motorcycle, make a report thereof to the commissioner who shall take such reasonable action as may be proper under the provisions of this chapter as to re-examination to determine if the licensee is capable of operating vehicles for which the individual is licensed.

Approved March 14, 1967.

CHAPTER 307

S. B. No. 184
(Holand)

ARREST OF TRAFFIC VIOLATORS

AN ACT

To amend and reenact section 39-07-07 of the 1965 Supplement to the North Dakota Century Code, relating to arresting person for violating traffic regulations and to amend and reenact sections 39-07-08 and 39-07-09 of the North Dakota Century Code, relating to hearing upon arrest and release upon promise to appear, and providing a penalty.

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

§ 1. **Amendment.)** Section 39-07-07 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-07-07. Halting Person for Violating Traffic Regulations—Duty of Officer Halting.) Whenever any person is halted for the violation of any of the provisions of chapters 39-08 through 39-13, 39-18 and 39-21, the officer halting such person, except as otherwise provided in section 39-07-09, may:

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.

§ 2. **Amendment.)** Section 39-07-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-07-08. Hearing—Time of—Promise of Defendant to Appear—Failure to Appear.) The time to be specified in the summons or notice provided for in section 39-07-07 shall be at least five days after the issuance of such summons or notice unless the person halted shall demand an earlier hearing, and, if the person halted desires, he may have the right, at a convenient hour, to an immediate hearing or to a hearing within twenty-four hours. Such hearing shall be before a magistrate of the township, municipality, or county in which the offense was committed. Upon the receipt from the person halted of a written promise to appear at the time and place mentioned in the summons or notice, such officer shall release him from custody. Any person refusing to give such written promise to

appear shall be taken immediately by the halting officer before the nearest or most accessible magistrate. Any person willfully violating his written promise to appear shall be subject to the penalty prescribed by section 39-07-06 regardless of the disposition of the charge upon which he originally was halted.

§ 3. **Amendment.**) Section 39-07-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-07-09. Offenses Under Which Person Halted May Not Be Entitled to Release Upon Promise to Appear.) The provisions of section 39-07-07 shall not apply to a person if:

1. The halting officer shall have good reason to believe such person guilty of any felony or when such person is halted and charged with either of the following offenses:
 - a. Causing or contributing to an accident resulting in injury or death of any person;
 - b. Driving while under the influence of intoxicating liquor or a narcotic drug;
2. The halting officer, acting within his discretion, deems it inadvisable to release such person upon his promise to appear when halted and charged with either of the following offenses:
 - a. Reckless driving;
 - b. Driving in excess of speed limitations established by the state or by local authorities in their respective jurisdictions.

The halting officer forthwith shall take any person not released upon his promise to appear before the nearest or most accessible magistrate.

Approved February 27, 1967.

CHAPTER 308

H. B. No. 544

(Giffey, Opedahl, Tweten, Winge)

(From LRC Study)

ACCIDENT REPORT FORMS

AN ACT

To amend and reenact sections 39-08-13, 39-08-14, 39-16-03 of the North Dakota Century Code, relating to accident report forms, public inspection of reports relating to accidents, and abstracts of such forms.

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

§ 1. **Amendment.)** Section 39-08-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-08-13. Accident Report Forms.) 1. The commissioner shall prepare and supply to police departments, coroners, sheriffs, garages, and other suitable agencies or individuals, forms for accident reports required hereunder, appropriate with respect to the persons required to make such reports and the purposes to be served. The written reports to be made by investigating officers shall call for sufficiently detailed information to disclose with reference to a traffic accident the cause, conditions then existing, persons and vehicles involved, and contain information sufficient to enable the commissioner to determine whether the requirements for the deposit of security under chapter 39-16 are applicable.

2. Every accident report required to be made in writing shall be made on the appropriate form approved by the commissioner and shall contain all the information required therein unless not available.

3. Every law enforcement officer who investigates a vehicle accident of which report must be made as required in this chapter, or who otherwise prepares a written report as a result of an investigation either at the time of and at the scene of the accident or thereafter by interviewing the participants or witnesses, shall forward a written report of such accident to the department within five days after his investigation of the accident.

4. Such written reports required to be forwarded by law enforcement officers and the information contained therein shall not be privileged or held confidential, except, however,

the opinion of the law enforcement or investigating officer, if included in the report, shall be confidential and not open to public inspection.

§ 2. Amendment.) Section 39-08-14 of the 1965 Supplement to 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.

3. No written reports or written 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.

Notwithstanding any other provisions of this chapter, any information compiled or otherwise made available to the department pursuant to this chapter shall be transmitted to each and every duly authorized official or agency of the United States requesting such.

§ 3. Amendment.) Section 39-16-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-16-03. Abstracts — Fee — Not Admissible in Evidence.) The commissioner upon request shall furnish any person a certified abstract of the operating record or any accident report filed by a law enforcement or investigating officer of any person subject to the provisions of this chapter. The opinion of the law enforcement or investigating officer, if included in

the report, however, shall be confidential and not open to public inspection. If there shall be no record of any conviction of such person of violating any law relating to the operation of a motor vehicle or of any injury or damage caused by such person, the commissioner shall so certify. Such abstracts shall not be admissible as evidence in any action for damages or criminal proceedings arising out of a motor vehicle accident. A fee of one dollar and fifty cents shall be paid for each such abstract of any operating record or copy of accident report.

Approved March 14, 1967.

CHAPTER 309

H. B. No. 323

(Gackle, Kent, Kingsbury)

USE OF LIQUOR AND ALCOHOLIC BEVERAGES IN MOTOR VEHICLES

AN ACT

To amend and reenact section 39-08-18 of the North Dakota Century Code, relating to open liquor containers and drinking alcoholic beverages in motor vehicles, and providing a penalty.

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

§ 1. **Amendment.**) Section 39-08-18 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-08-18. Open Bottle Law — Penalty.) No person shall drink or consume alcoholic beverages, as defined in the North Dakota Century Code, in or on any motor vehicle when such vehicle is upon a public highway or in an area used principally for public parking. No person shall have in his possession on his person while in or on a private motor vehicle upon a public highway or in an area used principally for public parking, any bottle or receptacle containing such alcoholic beverages which has been opened, or the seal broken, or the contents of which have been partially removed. It shall be unlawful for the owner of any private motor vehicle or the driver, if the owner be not then present in or on the motor vehicle, to keep or allow to be kept in a motor vehicle when such vehicle is upon the public highway or in an area used principally for public parking any bottle or receptacle containing such alcoholic beverages which has been opened, or the seal broken, or the contents of which have been partially removed except when such bottle

or receptacle shall be kept in the trunk of the motor vehicle when such vehicle is equipped with a trunk, or kept in some other area of the vehicle not normally occupied by the driver or passengers, if the motor vehicle is not equipped with a trunk. A utility compartment or glove compartment shall be deemed to be within the area occupied by the driver and passengers. Any person violating the provisions of this section shall be guilty of a misdemeanor, and shall be punished by a fine of not less than ten dollars nor more than fifty dollars, or by imprisonment in the county jail for not less than five days nor more than thirty days, or by both such fine and imprisonment, in the discretion of the court.

Approved March 14, 1967.

CHAPTER 310

H. B. No. 755

(Dahl, Erickson(26), Sandness, Stoltenow)

WIDTH, HEIGHT, AND LENGTH LIMITATIONS ON VEHICLES

AN ACT

To amend and reenact subsections 1 and 2 of section 39-12-04 of the 1965 Supplement to the North Dakota Century Code, relating to width, height, and length limitations on vehicles.

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

§ 1. **Amendment.**) Subsections 1 and 2 of section 39-12-04 of the 1965 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

1. A total outside width, including load thereon, of eight feet. This limitation shall not apply to construction and building moving contractor's equipment, or to equipment used by such contractors to move their own equipment and when so moved by its owner or owners, which moving equipment shall not exceed ten feet, nor to implementations of husbandry temporarily propelled or moved upon the highways of this state between sunrise and sunset; nor shall such limitation apply to farmers or ranchers or employees under their supervision when moving hay in the stack for his or their own use or in cooperation with other owners, providing that equipment used for this purpose shall be operated along the extreme right edge of the road or highway, and shall be

operated only between the hours of sunrise and sunset and in accordance with reasonable rules and regulations prescribed by the state highway commissioner; nor shall such limitation apply to a commercial haystack mover who shall have first obtained a seasonal haystack moving permit from the state highway commissioner. Provided, however, that any commercial haystack mover possessing a valid permit may also haul bales under the authority of the permit issued authorizing the hauling of haystacks. The fee for such permit shall be fifteen dollars which shall be in lieu of registration requirements while such vehicle is used for haystack moving only. Applicant shall have filed proof of liability insurance coverage in an amount not less than fifty thousand dollars and shall provide a red flag both to the front and to the rear of such haystack at all times when located upon any public highway and shall operate only between the hours of sunrise and sunset and in accordance with such additional reasonable rules and regulations as may be prescribed by the state highway commissioner.

2. A height of thirteen feet, six inches, whether loaded or unloaded, except that such height limitation shall not affect any present structure such as bridges and underpasses that are not thirteen feet six inches in height. Provided, however, a height of fifteen and one-half feet, whether loaded or unloaded, may be allowed by special permit by the state highway commissioner.

Approved March 14, 1967.

CHAPTER 311

S. B. No. 42
(Forkner, Holand, Luick)
(From LRC Study)

MINIMUM SPEED LIMITS AND TRAFFIC CONTROL DEVICES

AN ACT

To provide a method for the establishment of minimum speed limits and to provide for the adoption of a manual and specifications for a uniform system of traffic control devices and requiring the highway department to place and maintain signs and devices in accordance therewith, and to amend and reenact section 39-13-02 of the North Dakota Century Code, relating to local traffic signs.

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

§ 1. Minimum Speed Limits.) 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 state highway commissioner and the superintendent of the highway patrol, acting jointly, or local authorities within their respective jurisdictions, determine on the basis of an engineering and traffic investigation that slow speeds on any part of a highway consistently impede the normal and reasonable movement of traffic, and where safe, alternate routes are available for slow-moving vehicles, the commissioner and superintendent or such local authority 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. The commissioner and superintendent or local authorities when acting within their respective jurisdictions shall provide in their declarations for a means of moving slow-moving vehicles within such limited speed areas.

§ 2. State Highway Commissioner to Adopt Sign Manual.) The state highway commissioner shall adopt a manual and specifications for a uniform system of traffic control devices consistent with the provisions of this chapter for use upon highways within this state. Such uniform system shall correlate with and so far as possible conform to the system set forth in the most recent edition of the manual on uniform traffic control devices for streets and highways.

§ 3. State Highway Commissioner To Sign All State Highways.) The state highway commissioner shall place and maintain such traffic control devices, conforming to its manual and

specifications, upon all state highways as he shall deem necessary to indicate and to carry out the provisions of this chapter or to regulate, warn, or guide traffic. Provided, however, that the commissioner may negotiate maintenance agreements with municipalities for those signs upon state highways which are located within the corporate limits of any municipality. No local authority shall place or maintain any traffic control device upon any highway under the jurisdiction of the state highway commissioner except by the latter's permission.

§ 4. **Amendment.)** Section 39-13-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-13-02. Local Traffic Signs.) Local authorities in their respective jurisdictions shall place and maintain such traffic control devices upon highways under their jurisdiction as prescribed in the state manual and specifications to indicate and to carry out the provisions of this Act or local traffic ordinances or to regulate, warn or guide traffic. All such traffic control devices erected after the effective date of this Act shall conform to the state manual and specifications. All previously existing traffic control devices must conform to the state manual and specifications by December 31, 1968.

Approved February 22, 1967.

CHAPTER 312

H. B. No. 616

(Strinden, Bunker, Welder)

PARKING AND TRAFFIC SIGNS IN MUNICIPALITIES

AN ACT

To amend and reenact sections 39-13-03 and 39-10-04 of the North Dakota Century Code, relating to parking and traffic signs within municipalities.

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

§ 1. **Amendment.)** Section 39-13-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-13-03. Local Parking Regulations Not Enforceable Where Sign Illegible or Not in Proper Position.) Local parking and other special regulations shall not be enforceable against an alleged violator if, at the time and place of the

alleged violation, an appropriate sign giving notice thereof is not in proper position and sufficiently legible to be seen by an ordinarily observant person. This section shall not apply to those municipalities which have adopted ordinances regulating parking and traffic therein under appropriate and general powers granted to them by sections 40-05-01 and 40-05-02 of the North Dakota Century Code.

§ 2. **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. This section shall not apply to those municipalities which have adopted ordinances regulating parking and traffic therein under appropriate and general powers granted to them by sections 40-05-01 and 40-05-02 of the North Dakota Century Code.

Approved February 27, 1967.

CHAPTER 313

H. B. No. 547

(Giffey, Opedahl, Tweten, Winge)

(From LRC Study)

FINANCIAL RESPONSIBILITY FOR MOTOR VEHICLES

AN ACT

To create and enact chapter 39-16.1 and to amend and reenact section 39-16-05 of the North Dakota Century Code, relating to the financial responsibility of owners and operators of motor vehicles and the suspension of licenses, and to repeal subsection 9 of section 39-16-01 and sections 39-16-12, 39-16-13, 39-16-14, 39-16-15, 39-16-16, 39-16-17, 39-16-18, 39-16-19, 39-16-20, 39-16-21, 39-16-22, 39-16-23, 39-16-24, 39-16-25, 39-16-26, 39-16-27, and 39-16-28 of the North Dakota Century Code, relating to proof of financial responsibility.

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

§ 1. **Amendment.)** Section 39-16-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-16-05. Suspension of License and When Not Applicable.) The commissioner, within sixty days after the receipt of a report of a motor vehicle accident within this state which has resulted in bodily injury or death, or damage to the property of any one person in excess of one hundred dollars, shall suspend the license of each driver of each vehicle in any manner involved in such accident, and if such driver is a nonresident the privilege of operating a motor vehicle within this state unless such driver shall deposit security as provided in sections 39-16-09 and 39-16-10 in a sum which shall be sufficient in the judgment of the commissioner to satisfy any judgment or judgments for damages resulting from such accident as may be recovered against such driver; provided notice of such suspension shall be sent by the commissioner to such driver not less than ten days prior to the effective date of such suspension and shall state the amount required as security. The commissioner may, however, stay, on application, the suspension of license provided for herein, for an additional period of not to exceed four months when an immediate suspension would result in hardship, or the facts presented to the commissioner indicate a doubt as to the liability of the party. This section shall not apply under the conditions stated in section 39-16-06 or to any of the following:

1. To such driver if such owner had in effect at the time of such accident an automobile liability policy with

respect to the motor vehicle involved in such accident, affording substantially the same coverage as is required for proof of financial responsibility under this chapter;

2. To such driver, if not the owner of such motor vehicle, if there was in effect at the time of such accident an automobile liability policy or bond with respect to his operation of motor vehicle, affording substantially the same coverage as required for proof of financial responsibility under this chapter;
3. To such driver if the liability of such driver for damages resulting from such accident is, in the judgment of the commissioner, covered by any other form of liability insurance policy or bond or certificate of self-insurance under section 39-16-32.

No such policy or bond shall be effective under this section unless by an insurance carrier or surety company authorized to do business in the state, except that if such motor vehicle was not registered in this state, or was a motor vehicle which was registered elsewhere than in this state at the effective date of the policy or bond, or the most recent renewal thereof, such policy or bond shall not be effective under this section unless the insurance carrier or surety company, if not authorized to do business in this state, shall execute a power of attorney authorizing the commissioner to accept service, on its behalf, of notice or process in any action upon such policy or bond arising out of such accident; provided, every such policy or bond is subject, if the accident has resulted in bodily injury or death, to a limit, exclusive of interest and costs, of not less than 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, to a limit of not less than twenty thousand dollars because of bodily injury to or death of two or more persons in any one accident, and, if the accident has resulted in injury to or destruction of property to a limit of not less than five thousand dollars because of injury to or destruction of property of others in any one accident. Upon receipt of notice of such accident, the insurance carrier or surety company which issued such policy or bond shall furnish for filing with the commissioner a written notice that such policy or bond was in effect at the time of such accident, or the department may rely upon the accuracy of the information and the required report of an accident as to the existence of insurance or a bond unless and until the department has reason to believe that the information is erroneous.

§ 2.) Chapter 39-16.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

CHAPTER 39-16.1

Proof of Financial Responsibility for the Future

39-16.1-01. Application.) The provisions of this chapter requiring the deposit of proof of financial responsibility for the future, subject to certain exemptions, shall apply with respect to persons who have been convicted of or forfeited bail for certain offenses under motor vehicle laws or who have failed to pay judgments upon causes of action arising out of ownership, maintenance, or use of vehicles of a type subject to registration under the laws of this state.

39-16.1-02. Definition of Proof of Financial Responsibility.) "Proof of financial responsibility" means 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.

39-16.1-03. Notice of Failure to Satisfy Judgment.) When any person fails within thirty days to satisfy any judgment, it shall be the duty of the clerk of the court, or of the judge of a court which has no clerk, in which any such judgment is rendered within this state, to forward to the commissioner immediately after the expiration of said thirty days, a certified copy of such judgment and affidavit of identification. If the judgment debtor named in any certified copy of a judgment reported to the commissioner is a nonresident, the commissioner shall transmit a certified copy of the judgment to the official in charge of the issuance of drivers' licenses of the state of which the judgment debtor is a resident.

39-16.1-04. Suspension of License — Temporary Release.)

1. The commissioner, upon receipt of a certified copy of a judgment, shall forthwith suspend the license or any nonresident's operating privilege, of any person against whom such judgment was rendered except as hereinafter otherwise provided in this section and in section 39-16.1-06.

2. If the judgment creditor consents in writing, in such form as the commissioner may prescribe that the judgment debtor be allowed license or nonresident's operating privilege, the same may be allowed by the commissioner, in his discretion, for six months from the date of such consent and there-

after until such consent is revoked in writing, notwithstanding default in the payment of such judgment, or of any installments thereof prescribed in section 39-16.1-06 provided the judgment debtor furnishes proof of financial responsibility.

3. Any person whose license or nonresident's operating privilege has been suspended or is about to be suspended or shall become subject to suspension under the provisions of this chapter may be relieved from the effect of such judgment as hereinbefore prescribed in this chapter by filing with the commissioner an affidavit stating that at the time of the accident upon which such judgment has been rendered the affiant was insured, that the insurer is liable to pay such judgment, and the reason, if known, why such insurance carrier has not paid such judgment. Such person shall also file the original policy of insurance or a copy thereof, if available, and such other documents as the commissioner may require to show that the loss, injury, or damage for which such judgment was rendered, was covered by such policy of insurance. If the commissioner is satisfied from such papers that such insurer was authorized to issue such policy of insurance at the time and place of issuing such policy and that such insurer is liable to pay such judgment, at least to the extent and for the amounts required in this chapter, the commissioner shall not suspend such license or nonresident's operating privilege, or if already suspended shall reinstate them.

4. A license or nonresident's operating privilege shall remain suspended and shall not be renewed, nor shall any such license be thereafter issued in the name of such person, including any such person not previously licensed, unless and until every such judgment is satisfied in full or to the extent hereinafter provided and until the said person gives proof of financial responsibility subject to the exemptions stated in sections 39-16.1-04 and 39-16.1-06.

5. A discharge in bankruptcy following the rendering of any such judgment shall not relieve the judgment debtor from any of the requirements of this chapter.

39-16.1-05. Satisfaction of Judgment.) Judgments herein referred to shall, for the purpose of this chapter only, be deemed satisfied:

1. When ten thousand dollars has been credited upon any judgment or judgments rendered in excess of that amount because of bodily injury to or death of one person as the result of any one accident; or

2. When, subject to such limit of ten thousand dollars because of bodily injury to or death of one person, the sum of

twenty thousand dollars has been credited upon any judgment or judgments rendered in excess of that amount because of bodily injury to or death of two or more persons as the result of any one accident; or

3. When five thousand dollars has been credited upon any judgment or judgments rendered in excess of that amount because of damage to or destruction of property of others as a result of any one accident. Payments made in settlement of any claims because of bodily injury, death or property damages arising from a motor vehicle accident shall be credited in reduction of the amounts provided for in this section.

39-16.1-06. Installment Payments.) 1. A judgment debtor upon due notice to the judgment creditor may apply to the court in which such judgment was rendered for the privilege of paying such judgment in installments and the court, in its discretion and without prejudice to any other legal remedies which the judgment creditor may have, may so order and fix the amounts and times of payment of the installments.

2. The commissioner shall not suspend a license, or a non-resident's operating privilege, suspended following nonpayment of a judgment, when the judgment debtor gives proof of financial responsibility and obtains such an order permitting the payment of such judgment in installments, and while the payment of any said installment is not in default.

3. In the event the judgment debtor fails to pay any installment as specified by such order, then upon notice of such default, the commissioner shall forthwith suspend the license, or nonresident's operating privilege of the judgment debtor until such judgment is satisfied as provided in this chapter.

39-16.1-07. Revocation of License for Reasons Other Than Provisions of This Chapter.) 1. Whenever the commissioner under any other law of this state, revokes the license of any person, such license shall remain revoked and shall not at any time thereafter be renewed nor shall any license be thereafter issued to such person, unless and until he shall give and thereafter maintain proof of financial responsibility.

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 highway 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.

3. Whenever the commissioner revokes a nonresident's operating privilege by reason of a conviction or forfeiture of bail, such privilege shall remain so revoked unless such person shall have previously given or shall immediately give and thereafter maintain proof of financial responsibility.

39-16.1-08. Proof of Financial Responsibility.) Proof of financial responsibility when required under this chapter may be given by filing:

1. A certificate of insurance as provided in sections 39-16.1-09 and 39-16.1-10; or
2. A bond as provided in section 39-16.1-14; or
3. A certificate of deposit of money or securities as provided in section 39-16.1-15.

39-16.1-09. Proof by Showing Insurance Coverage.) 1. Proof of financial responsibility may be furnished by filing with the commissioner the written certificate of any insurance carrier duly authorized to do business in this state certifying that there is in effect a motor vehicle liability policy for the benefit of the person required to furnish proof of financial responsibility. Such certificate shall give the effective date of such motor vehicle liability policy, which date shall be the same as the effective date of the certificate, and shall designate by explicit description or by appropriate reference all motor vehicles covered thereby, unless the policy is an operator's policy.

2. When a certificate is filed showing that a policy or policies have been issued covering certain described motor vehicles or a limited operator's policy but not insuring such person when operating all other motor vehicles, the commissioner shall designate suitable restriction upon the driver's license of such person authorizing the operation of only such vehicles as are covered by the certificate. It shall be unlawful for such person to operate any motor vehicle not covered by such certificate. In the event a person desires to be relieved of the foregoing restriction and to be permitted to operate any motor vehicle, he may have such restriction removed upon filing a certificate showing that there has been issued to him a motor vehicle liability policy insuring him against liability arising out of the use of any motor vehicle.

39-16.1-10. Nonresident Owner.) 1. The nonresident owner of a motor vehicle not registered in this state may give proof of financial responsibility by filing with the commissioner a

written certificate or certificates of an insurance carrier authorized to transact business in the state in which the motor vehicle or motor vehicles described in such certificate is registered, or if such nonresident does not own a motor vehicle, then in the state in which the insured resides, provided such certificate otherwise conforms to the provisions of this chapter, and the commissioner shall accept the same upon condition that said insurance carrier complies with the following provisions with respect to the policies so certified:

- a. Said insurance carrier shall execute a power of attorney authorizing the commissioner to accept service on its behalf of notice or process in any action arising out of a motor vehicle accident in this state;
- b. Said insurance carrier shall agree in writing that such policies shall be deemed to conform with the laws of this state relating to the terms of motor vehicle liability policies issued herein.

2. If any insurance carrier not authorized to transact business in this state, which has qualified to furnish proof of financial responsibility, defaults in any said undertaking or agreements, the commissioner shall not thereafter accept as proof any certificate of said carrier whether theretofore filed or thereafter tendered as proof, so long as such default continues.

39-16.1-11. Motor Vehicle Liability Policy.) 1. A "motor vehicle liability policy" as said term is used in this chapter shall mean an owner's or an operator's policy of liability insurance, certified as provided in sections 39-16.1-09 and 39-16.1-10 as proof of financial responsibility, and issued, except as otherwise provided in section 39-16.1-10, by an insurance carrier duly authorized to transact business in this state, to or for the benefit of the person named therein as insured.

2. Such owner's policy of liability insurance:
 - a. Shall designate by explicit description or by appropriate reference all motor vehicles with respect to which coverage is thereby to be granted; and
 - b. Shall insure the person named therein and any other person, as insured, using such motor vehicle or motor vehicles with the express or implied permission of such named insured, against loss from the liability imposed by law for damages arising out of the ownership, maintenance or use of such motor vehicles within the United States of America or the Dominion of Canada, subject to limits exclusive of interest and costs, with respect to each such motor vehicle, as

follows: 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, twenty thousand dollars because of bodily injury to or death of two or more persons in any one accident, and five thousand dollars because of injury to or destruction of property of others in any one accident.

3. Such operator's policy of liability insurance shall insure the person named as insured therein against loss from the liability imposed upon him by law for damages arising out of the use by him of any motor vehicle, either unlimited, or limited by excluding certain classes or types of motor vehicles, within the same territorial limits and subject to the same limits of liability as are set forth above with respect to an owner's policy of liability insurance.

4. Such motor vehicle liability policy shall state the name and address of the named insured, the coverage afforded by the policy, the premium charged therefor, the policy period and the limits of liability, and shall contain an agreement or be endorsed that insurance is provided thereunder in accordance with the coverage defined in this chapter as respects bodily injury and death or property damage, or both, and is subject to all the provisions of this chapter.

5. Such motor vehicle liability policy need not insure any liability under any workmen's compensation law nor any liability on account of bodily injury to or death of an employee of the insured while engaged in the employment, other than domestic, of the insured, or while engaged in the operation, maintenance or repair of any such motor vehicle nor any liability for damage to property owned by, rented to, in charge of or transported by the insured.

6. Every motor vehicle liability policy shall be subject to the following provisions which need not be contained therein:

- a. The liability of the insurance carrier with respect to the insurance required by this chapter shall become absolute whenever injury or damage covered by said motor vehicle liability policy occurs; said policy may not be canceled or annulled as to such liability by any agreement between the insurance carrier and the insured after the occurrence of the injury or damage; no statement made by the insured or on his behalf and no violation of said policy shall defeat or void said policy.
- b. The satisfaction by the insured of a judgment for such injury or damage shall not be a condition prece-

dent to the right or duty of the insurance carrier to make payment on account of such injury or damage.

- c. The insurance carrier shall have the right to settle any claim covered by the policy, and if such settlement is made in good faith, the amount thereof shall be deductible from the limits of liability specified in subsection 2, subdivision b, of this section for the accident out of which such claim arose.
- d. The policy, the written application therefor, if any, and any rider or endorsement which does not conflict with the provisions of this chapter shall constitute the entire contract between the parties.

7. Any policy which grants the coverage required for a motor vehicle liability policy may also grant any lawful coverage in excess of or in addition to the coverage specified for a motor vehicle liability policy and such excess or additional coverage shall not be subject to the provisions of this chapter. With respect to a policy which grants such excess or additional coverage the term "motor vehicle policy" shall apply only to that part of the coverage which is required by this section.

8. Any motor vehicle liability policy may provide that the insured shall reimburse the insurance carrier for any payment the insurance carrier would not have been obligated to make under the terms of the policy except for the provisions of this chapter.

9. Any motor vehicle liability policy may provide for the prorating of the insurance thereunder with other valid and collectible insurance.

10. The requirements for a motor vehicle liability policy may be fulfilled by the policies of one or more insurance carriers which policies together meet such requirements.

11. Any binder issued pending the issuance of a motor vehicle liability policy shall be deemed to fulfill the requirements for such policy.

39-16.1-12. Notice of Proposed Cancellation of Policy by Insurer.) When an insurance carrier has certified a motor vehicle liability policy under sections 39-16.1-09 and 39-16.1-10, the insurance so certified shall not be canceled or terminated until at least ten days after a notice of cancellation or termination of the insurance so certified shall be filed in the office of the commissioner, except that such a policy subsequently procured and certified shall, on the effective date of its certification, terminate the insurance previously certified with respect to any motor vehicle designated in both certificates.

39-16.1-13. Other Laws Requiring Insurance.) 1. This chapter does not apply to or affect policies of automobile insurance against liability which may now or hereafter be required by any other law of this state, and such policies, if they contain an agreement or are endorsed to conform to the requirements of this chapter, may be certified as proof of financial responsibility under this chapter.

2. This chapter shall not be held to apply to or affect policies insuring solely the insured named in the policy against liability resulting from the maintenance or use by persons in the insured's employ or on his behalf of motor vehicles not owned by the insured.

39-16.1-14. Financial Responsibility May Be Evidenced by Bond.) 1. Proof of financial responsibility may be evidenced by the bond of a surety company duly authorized to transact business within this state, or a bond with at least two individual sureties each owning real estate not exempt from execution of a value twice the amount of such bond, which real estate shall be scheduled in the bond approved by a judge of a court of record, and recorded in the office of the register of deeds of each county in which such real estate is situated, which said bond shall be conditioned for payment of the amounts specified in section 39-16.1-02. Such bond shall be filed with the commissioner and shall not be cancelable except after ten days' written notice to the commissioner. Such bond shall constitute a lien in favor of the state upon the real estate so scheduled of any surety, which lien shall exist for the benefit of any holder of a final judgment against the person who has filed such bond, 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, resulting from the ownership, maintenance, use, or operation of a motor vehicle after such bond is recorded.

2. If such judgment rendered against the principal on such bond shall not be satisfied within sixty days after it has become final, the judgment creditor may, for his own use and benefit and at his sole expense, bring an action or actions in his own name against the company or persons executing such bond, including an action or proceeding to foreclose any lien that may exist upon the real estate of a person who has executed such bond.

39-16.1-15. Deposit of Cash with State Treasurer.) 1. Proof of financial responsibility may be evidenced by the certificate of the state treasurer that the person named therein has deposited with him twenty-five thousand dollars in cash, or securities such as may legally be purchased by savings banks

or for trust funds of a market value of twenty-five thousand dollars. The state treasurer shall not accept any such deposit and issue a certificate therefor and the commissioner shall not accept such certificate unless accompanied by evidence that there are no unsatisfied judgments of any character against the depositor in the county where the depositor resides.

2. Such deposit shall be held by the state treasurer to satisfy, in accordance with the provisions of this chapter, any execution on a judgment issued against such person making the deposit 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 damages to or destruction of property, including the loss of use thereof, resulting from the ownership, maintenance, use or operation of a motor vehicle after such deposit was made. Money or securities so deposited shall not be subject to attachment or execution unless such attachment or execution shall arise out of a suit for damages as aforesaid.

39-16.1-16. Employment of Family Connection in Lieu of Proof of Financial Responsibility.) Whenever any person required to give proof of financial responsibility hereunder is or later becomes an operator in the employ of any owner, or is or later becomes a member of the immediate family or household of the owner, the commissioner shall accept proof given by such owner in lieu of proof by such other person to permit such other person to operate a motor vehicle for which the owner has given proof as herein provided. The commissioner shall designate the restrictions imposed by this section on the face of such person's license.

39-16.1-17. Release of Bond or Deposit on Making Other Proof of Responsibility.) 1. The commissioner shall consent to the cancellation of any bond or certificate of insurance or the commissioner shall direct and the state treasurer shall return any money or securities to the person entitled thereto upon the substitution and acceptance of other adequate proof of financial responsibility pursuant to this chapter.

2. The commissioner shall not consent to the cancellation of any bond or the return of any money or securities in the event any action for damages upon liability covered by such proof is then pending or any judgment upon any such liability is then unsatisfied, or in the event the person who has filed such bond or deposited such money or securities has, within one year immediately preceding such request been involved as an operator or owner in any motor vehicle accident resulting in injury or damage to the person or property of others. An affidavit of the applicant as to the nonexistence of such facts, or that he

has been released from all of his liability, or has been finally adjudicated not to be liable, for such injury or damage, shall be sufficient evidence thereof in the absence of evidence to the contrary in the records of the commissioner.

39-16.1-18. Procedure on Failure of Proof on File.) Whenever any proof of financial responsibility filed under the provisions of this chapter no longer fulfills the purposes for which required, the commissioner shall, for the purpose of this chapter, require other proof as required by this chapter and shall suspend the license or the nonresident's operating privilege upon failure to file such other proof as required.

39-16.1-19. Cancellation of Bond or Return of Deposit.) 1. The commissioner shall upon request consent to the immediate cancellation of any bond or certificate of insurance, or the commissioner shall direct and the state treasurer shall return to the person entitled thereto any money or securities deposited pursuant to this chapter as proof of financial responsibility, or the commissioner shall waive the requirement of filing proof, in any of the following events:

- a. At any time after five years from the date such proof was required when, during the five-year period preceding the request, the commissioner has not received record of a conviction or a forfeiture of bail which would require the revocation of the license, or nonresident's operating privilege of the person by or for whom such proof was furnished; or
- b. The death of the person on whose behalf such proof was filed or the permanent incapacity of such person to operate a motor vehicle; or
- c. The surrender of his license to the commissioner by the person who has given proof.

2. The commissioner shall not consent to the cancellation of any bond or the return of any money or securities in the event any action for damages upon a liability covered by such proof is then pending or any judgment upon any such liability is then unsatisfied, or in the event the person who has filed such bond or deposited such money or securities has, within one year immediately preceding such request been involved as an operator or owner in any motor vehicle accident resulting in injury or damage to the person or property of others. An affidavit of the applicant as to the nonexistence of such facts, or that he has been released from all of his liability, or has been finally adjudicated not to be liable, for such injury or damage, shall be sufficient evidence thereof in the absence of evidence to the contrary in the records of the commissioner.

3. Whenever any person whose proof has been canceled or returned under subdivision c of subsection 1 of this section applies for a license within a period of five years from the date proof was originally required, any such application shall be refused unless the applicant shall re-establish such proof for the remainder of such five-year period.

39-16.1-20. Seizure or Return of Driver's License.) Any person whose license is suspended as herein provided, or whose policy of insurance or bond, when required under this chapter, is canceled or terminated, or who neglects to furnish other proof upon request of the commissioner shall immediately return his license to the commissioner. If any person fails to return to the commissioner the license as provided herein, the commissioner shall forthwith direct any peace officer to secure possession thereof and return the same to the commissioner.

39-16.1-21. Misdemeanor.) 1. It is a misdemeanor for any person whose license or nonresident's operating privilege has been suspended or revoked under this chapter to drive any motor vehicle upon any highway except as permitted under this chapter during such suspension or revocation.

2. It is a misdemeanor for any person to violate any of the provisions of this chapter.

39-16.1-22. Federal—State or Municipal Ownership.) This chapter does not apply with respect to any motor vehicle owned and operated by the United States, this state, or any political subdivision of this state or any municipality therein.

39-16.1-23. Who May Be Self-Insurer.) 1. Any person in whose name more than twenty-five motor vehicles are registered may qualify as a self-insurer by obtaining a certificate of self-insurance issued by the commissioner as provided in subsection 2 of this section.

2. The commissioner may, upon the application of any person, issue a certificate of self-insurance when he is satisfied that such person is possessed and will continue to be possessed of ability to pay any judgment obtained against him.

3. Upon not less than five days' notice and a hearing pursuant to such notice, the commissioner may cancel a certificate of self-insurance if he is satisfied that such person is not possessed or will not continue to be possessed of ability to pay any judgment obtained against him. Failure to pay any judgment within thirty days after such judgment shall have become final shall constitute a reasonable ground for the cancellation of a certificate of self-insurance.

§ 3. **Repeal.**) Subsection 9 of section 39-16-01 and sections 39-16-12, 39-16-13, 39-16-14, 39-16-15, 39-16-16, 39-16-17, 39-16-18, 39-16-19, 39-16-20, 39-16-21, 39-16-22, 39-16-23, 39-16-24, 39-16-25, 39-16-26, 39-16-27, and 39-16-28 of the North Dakota Century Code are hereby repealed.

Approved February 22, 1967.

CHAPTER 314

S. B. No. 134
(Torgerson, Becker)

DISSEMINATION OF DRIVER ABSTRACTS

AN ACT

To create and enact section 39-16-03.1 of the North Dakota Century Code, precluding the public dissemination of driver abstracts containing entries more than five years old except by a court order.

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

§ 1.) Section 39-16-03.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

39-16-03.1. Entries on Driver Record Abstracts More Than Five Years Old Confidential.) Notwithstanding any other provisions of this chapter, no entry more than five years old on a driver record or abstract shall be available to the public, except for statistical purposes, other than by order of a court of competent jurisdiction.

Approved February 22, 1967.

CHAPTER 315

S. B. No. 374
(Longmire)

AMOUNT PAYABLE FROM UNSATISFIED JUDGMENT FUND

AN ACT

To amend and reenact section 39-17-07 of the 1965 Supplement to the North Dakota Century Code, relating to limitation on the amount payable from the unsatisfied judgment fund.

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

§ 1. **Amendment.)** Section 39-17-07 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-17-07. Limitation on Amount Payable from Fund—Non-assignable.) 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 ten thousand dollars or the amount of the judgment, whichever is smaller and the amount realized thereon. Provided that in computing the amount authorized to be paid from the fund, any amount the judgment creditor has received from an uninsured motorist insurance policy or the workmen's compensation bureau shall be subtracted from the amount of the judgment before applying the above formula.

The right of any person to recover from the unsatisfied judgment fund shall not be assignable and subrogation of such right shall not be allowed.

Approved March 14, 1967.

CHAPTER 316

S. B. No. 71
(Becker, Torgerson)

MEMBERSHIP OF RECIPROcity COMMISSION

AN ACT

To amend and reenact section 39-19-01 of the North Dakota Century Code, relating to the membership, powers, and duties of the reciprocity commission and declaring an emergency.

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

§ 1. **Amendment.)** Section 39-19-01 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-19-01. Reciprocity Commission — Membership — Substitute Membership—Powers and Duties.) The reciprocity commission shall consist of the state highway commissioner, the motor vehicle registrar, the superintendent of the state highway patrol, the state auditor, and a member of the public service commission. Each regular member of the reciprocity commission may appoint his own substitute to act for him in his absence. This commission shall have the power and duty to execute agreements, arrangements, or declarations involving the reciprocal use of the highways of this state by vehicles excepted in part or in full from registration requirements or mile tax payments in lieu thereof. The commission shall also have the power to enter into reciprocal agreements with the appropriate officials of any other state under which it may waive all or any part of the requirements imposed by the laws or statutes of this state upon those who use or consume in the state of North Dakota gasoline, other motor vehicle fuel or special fuel upon which the tax has been paid to such other state, provided that the officials of such other state grant equivalent privileges with respect to gasoline, other motor vehicle fuel or special fuel used in such other state but upon which the tax has been paid to 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 3, 1967.

CHAPTER 317

H. B. No. 571
(Solberg(2), Opedahl)

MOTOR VEHICLE EQUIPMENT

AN ACT

To amend and reenact subsection 1 of section 39-21-29 of the North Dakota Century Code, relating to motor vehicle equipment.

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

§ 1. Amendment.) Subsection 1 of section 39-21-29 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

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 approved by the registrar. The foregoing provisions of this section shall not apply to equipment in actual use when this section is adopted or replacement parts therefor.

Approved February 21, 1967.

CHAPTER 318

H. B. No. 572
(Solberg(2), Opedahl)

AUTHORITY OF REGISTRAR AS TO MOTOR VEHICLE EQUIPMENT

AN ACT

To amend and reenact subsection 3 of section 39-21-30 of the North Dakota Century Code, relating to motor vehicle equipment.

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

§ 1. Amendment.) Subsection 3 of section 39-21-30 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. The registrar may set up the procedure which shall be followed when approval is sought for any device.

Approved February 21, 1967.

CHAPTER 319

H. B. No. 559

(Winge, Boustead, Olienyk, Tweten)

BRAKE EQUIPMENT REQUIRED ON MOTOR VEHICLES

AN ACT

To amend and reenact subsection 4 of section 39-21-32 of the 1965 Supplement to the North Dakota Century Code, relating to brake equipment required on motor vehicles.

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

§ 1. Amendment.) Subsection 4 of section 39-21-32 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. One of the means of brake operation shall be parking brakes adequate to hold the vehicle on any grade on which it is operated, under all conditions of loading, on a surface free from snow, ice or loose material. The parking brakes shall be capable of being applied in conformance with the foregoing requirements by the driver's muscular effort or by spring action or by equivalent means. Their operation may be assisted by the service brakes or other source of power provided that failure of the service brake actuation system or other power assisting mechanism will not prevent the parking brakes from being applied in conformance with the foregoing requirements. The parking brakes shall be so designed that when once applied they shall remain applied with the required effectiveness despite exhaustion of any source of energy or leakage of any kind. The same brake drums, brake shoes and lining assemblies, brake shoe anchors and mechanical brake shoe actuation mechanism normally associated with the wheel brake assemblies may be used for both the service brakes and the parking brakes.

Approved February 22, 1967.

CHAPTER 320

H. B. No. 702
(Kuehn, Kelsch)

RESTRICTIONS AS TO TIRE EQUIPMENT

AN ACT

To amend and reenact section 39-21-40 of the 1965 Supplement to the North Dakota Century Code, relating to restrictions as to tire equipment.

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

§ 1. Amendment.) Section 39-21-40 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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. It shall also be permissible to use, from October fifteen to April fifteen, pneumatic tires which have metal studs which do not project more than one-sixteenth of an inch beyond the tread of the traction surface of the tire.

Approved March 3, 1967.

CHAPTER 321

S. B. No. 306
(Kautzmann)

DISTRESS SIGNALS FOR HANDICAPPED DRIVERS

AN ACT

To provide for distress signals for handicapped drivers, and providing a penalty.

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

§ 1. Distress Signals for Handicapped Drivers.) Physically handicapped drivers of motor vehicles are hereby authorized, when getting into and out of such vehicles or when such vehicle is in distress, to display a white flag of approximately seven and one-half inches in width and thirteen inches in length, with the letter "H" thereon in red color with an irregular one-half inch red border. Said flag shall be of reflective material so as to be readily discernible under darkened conditions.

§ 2. Director of Safety Responsibility Division of Highway Department to Provide Distress Flags.) The director of the safety responsibility division of the highway department may, upon application and payment of a fee of one dollar, issue to any physically handicapped person a distress flag as described in section 1 of this Act, and a card which shall be the applicant's authority to use such flag. The card shall set forth the applicant's name, address, date of birth, physical apparatus, if any, needed to operate a motor vehicle, and other pertinent facts which the director deems desirable. The card and flag issued to an applicant shall bear corresponding numbers. In the event of loss or destruction of such flag a replacement may be issued upon the payment of the sum of one dollar by the applicant. The director of public safety shall maintain a list of those persons to whom distress flags and cards have been issued.

§ 3. Definition of Physically Handicapped.) "Physically handicapped" as employed herein shall include any person who has sustained an amputation or material disability of either or both arms or of either or both legs, or who has been otherwise disabled in any manner rendering it difficult and burdensome for him to walk.

§ 4. Penalty for Unauthorized Use.) Any person who is not physically handicapped who uses the above-mentioned flag

as a distress signal or for any other purpose shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not exceeding one hundred dollars.

Approved March 14, 1967.

CHAPTER 322

H. B. No. 595
(Aas, Allen, Peterson)

MOTORCYCLE RIDER'S EQUIPMENT AND ALLOWABLE NUMBER OF RIDERS PERMITTED

AN ACT

To require motorcycle operators and passengers to wear protective helmets and to preclude the carrying of passengers on certain two-wheel motorcycles.

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

§ 1. Crash Helmets Required for Operators of and Passengers on Motorcycles.) Every operator of and passenger on a motorcycle, as defined by subsection 32a of section 39-01-01 of the North Dakota Century Code, shall at all times when such motorcycle is in motion be required to wear a crash helmet of a type and meeting the standards approved and established by the motor vehicle registrar, provided, however, such helmets shall not be required to be worn when such motorcycle is driven in a parade or ceremonial conducted or permitted under local ordinances.

§ 2. Number of Riders on Motorcycles Limited.) No motorcycle, as defined by subsection 32a of section 39-01-01 of the North Dakota Century Code, designed to travel with fewer than three wheels in contact with the ground, shall be operated with more than one person thereon except that a motorcycle may be operated with not more than two persons riding thereon if such motorcycle is designed specifically for the purpose of carrying more than one person. The motor vehicle registrar shall promulgate by rules and regulations the specifications that a motorcycle must meet in order for two persons to ride on such motorcycle.

Approved March 14, 1967.

MUNICIPAL GOVERNMENT

CHAPTER 323

S. B. No. 46
(Hernett, Longmire)
(From LRC Study)

TRANSITION OF VILLAGES TO CITIES

AN ACT

To provide for the transition of villages to cities and to amend and reenact sections 1-08-04, 2-02-01, 2-02-02, 2-02-03, 2-02-04, 2-02-06, 2-02-08, subsection 4 of section 2-04-01, section 2-05-06.1, subsection 1 of section 2-06-01, sections 2-06-20, 5-01-13, 5-01-17, 5-02-07, 5-02-08, 5-03-03, 5-03-04, 5-03-20, 5-05-02, 5-05-03, 12-19-25, subsection 2 of section 12-21-15, subsection 5 of section 12-41-11, sections 15-27-01, 15-35-13, 16-09-02, 16-09-03, 18-01-06, 18-01-08, 18-04-01, 18-04-02, 18-04-03, 18-04-04, 18-04-05, 18-04-07, 19-01-05, subsection 1 of section 21-01-01, sections 21-01-06, 21-02-02, 21-02-06, subsections 1 and 2 of section 21-03-01, subsection 1 of section 21-03-02, subsection 2 of section 21-03-07, subsection 2 of section 21-03-10, sections 21-03-12, 21-03-17, 21-03-24, 21-03-25, 21-03-26, 21-03-27, 21-03-29, 21-03-31, 21-03-34, subsections 1, 2, and 3 of section 21-04-01, sections 21-04-06, 21-06-05, 21-06-06, 21-06-07, 21-06-09, subdivision b of subsection 1 and subdivision c of subsection 2 of section 23-02-13, subdivision b of subsection 1 and subdivision c of subsection 2 of section 23-02-30, subsections 2, 3, and 4 of section 23-03-07, sections 23-03-11, 23-05-01, 23-05-04, 23-05-05, subsection 1 of section 23-05-07, sections 23-05-08, 23-05-10, 23-07-04, 23-14-01, 23-14-07, 23-15-03, 23-24-02, 23-24-05, 23-24-06, subsection 26 of section 24-01-01.1, sections 24-01-14, 24-06-10, 24-07-04, 24-08-01, 26-23-05, 26-23-10, 26-23-22, subsection 3 of section 26-24-01, sections 26-24-06, 26-24-08, 27-09-06, 27-09-07, 27-09-08, 27-09-09, 27-09-10, 27-09-24, 29-02-23, 32-14-07, 32-28-01, 32-28-03, 38-09-02, 40-01-01, 40-01-02, 40-01-10, 40-01-11, 40-01-16, 40-01-18, 40-01-20, 40-02-01, subsection 4 of section 40-02-05, sections 40-02-09, 40-02-10, 40-02-11, 40-02-12, 40-04-01, 40-04-03, 40-04-04, 40-04-07, subsections 1 and 71 of section 40-05-01, sections 40-05-02.2, 40-05-05, 40-05-09.1, 40-11-01, 40-11-04, 40-11-08, 40-11-12, 40-13-02, 40-13-03, 40-18-01, 40-18-05, 40-18-07, 40-18-12, 40-18-15, 40-18-16, 40-18-17, 40-18-19, 40-19-01, 40-19-03, 40-21-06, 40-21-07, 40-21-08, 40-21-10, 40-21-12, 40-21-14, 40-22-14, 40-22-17, subsection 1 of section 40-22-19, sections 40-22-24, 40-22-25, 40-22-26, 40-22-30, subsection 1 of section 40-22-31, sections 40-22-35, 40-22-36, 40-22-40, 40-23-02, 40-23-05, 40-23-07, 40-23-12, 40-23-13, 40-23-14, 40-23-16, 40-24-09, 40-24-11, 40-24-12, 40-24-15, 40-24-16, 40-24-20, 40-27-05, 40-28-02, 40-28-03, 40-28-04, 40-28-05, 40-28-06, 40-28-07, 40-28-08, 40-28-09, 40-29-04, 40-29-05, 40-29-07, 40-29-09, 40-29-10, 40-29-12, 40-29-15, 40-29-17, 40-29-18, 40-29-19, 40-29-20, 40-33-03, 40-33-14, 40-33-16, subsection 5 of section 40-34-02, sections 40-38-03, 40-38-10, 40-39-01, 40-39-02, 40-39-03, 40-39-06, 40-39-08, 40-40-02, subdivision A of subsection 2 of section 40-40-05, sections 40-40-06, 40-40-10, 40-40-13, 40-40-14, 40-40-17, 40-41-02, 40-41-03, 40-41-07, 40-42-01, 40-42-02, 40-42-03, 40-43-03, 40-47-01, 40-48-28, 40-48-31, 40-48-35, 40-49-02, 40-49-04, 40-49-07, 40-49-08, sub-

section 1 of section 40-49-12, sections 40-49-13, 40-49-17, 40-50-16, 40-50-19, 40-50-22, 40-55-01, subsections 2, 3, and 4 of section 40-58-19, sections 40-59-02, 40-59-03, 47-19-14, 48-04-01, 48-04-02, 48-04-03, 50-16-01, 53-02-08, subsection 3 of section 53-03-01, sections 53-06-06, 57-12-01, 57-12-01.1, 57-12-02, subdivisions a and b of subsection 2 of section 57-12-06, subsections 1 and 3 of section 57-13-04, sections 57-15-01, 57-15-07, 57-15-10, 57-15-10.1, 57-15-27, 57-15-27.1, 57-15-30, 57-15-31, 57-15-32, 57-15-37, 57-15-38, 57-15-39, 57-15-40, 57-15-41, 57-15-42, 57-15-43, 58-02-10, 58-03-04, 58-04-01, subsections 4 and 18 of section 58-06-01, sections 58-10-04, 58-15-01, 58-15-02, 58-15-03, 58-15-04, 58-15-07, 58-16-01, 58-16-02, 61-01-18, 61-21-62, 62-01-06, 63-02-01, 63-02-03, 63-02-05, 63-02-06, 63-02-07, subsection 4 of section 63-02-08, subsection 3 of section 63-02-12, sections 63-02-14, 63-02-16, and 63-03-01 of the North Dakota Century Code, relating to forms of municipal government, eliminating villages as a form of municipal government, contracts by municipalities, municipal ordinances providing for the sale of property, and deleting provisions relating to villages and officers thereof, and to repeal section 16-10-05, subsection 3 of section 21-03-06, subsection 3 of section 21-03-21, chapter 40-03, sections 40-05-04, 40-05-07, chapter 40-07, sections 40-19-04, 40-21-04, 40-29-06, 40-49-06, 40-49-19, 40-51-13, 40-51-14, 40-51-15, 40-51-16, chapters 40-53, and 57-10, and section 57-15-09 of the North Dakota Century Code, relating to villages and their powers, duties, officers, and organization.

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

§ 1. **Amendment.)** Section 1-08-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1-08-04. Authorizing Counties, Cities, and Other Municipalities to Accept Devises, Bequests, Legacies, and Gifts.) Devises, legacies, bequests, and gifts may be lawfully made to the state or any county, township, city, school district, or park district of the state of North Dakota. The title to any property, real, personal, or mixed, which shall be devised, bequeathed, or given to the state, or to any such county, township, city, school district, or park district, for the use and benefit thereof, shall vest in the state or such county, township, city, school district, or park district, to be by it held in trust under the terms and conditions provided for in such devise, legacy, bequest, or gift. Unless otherwise authorized by the will or other instrument providing for such devise, legacy, bequest, or gift, no part of such property, nor of the income therefrom, shall be diverted or used for any other purpose. The officers charged with the management of the fiscal affairs of the state, or of any county, township, city, school district, or park district, to whom any such devise, legacy, bequest, or gift is made, shall be authorized to accept, receive, and administer the same for and on behalf of the state, or any such county, township, city, school district, or park district.

§ 2. Amendment.) Section 2-02-01 of the 1965 Supplement to 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, 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, park district, or township in connection therewith, or in the operation thereof, except to its own employees.

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

2-02-02. Property—How Acquired.) Private property needed by a county, city, park district, or township for an airport or landing field, or for the expansion of an airport or landing field, may be acquired by grant, purchase, lease, or other means, if such political subdivision is able to agree with the owners of said property on the terms of such acquisition, and otherwise by right of eminent domain.

§ 4. Amendment.) Section 2-02-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2-02-03. Purchase Price—How Paid—Bond Issue.) The purchase price or award for real property acquired in accordance with the provisions of this chapter for an airport or landing field may be paid for by appropriation of moneys available therefor or wholly or partly from the proceeds of the sale of bonds of said counties, cities, park districts, and townships, as the proper officials of such political subdivisions shall determine, but any bonds for such purpose shall be authorized and issued under the provisions of chapter 21-03 of the title Governmental Finance.

§ 5. Amendment.) Section 2-02-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2-02-04. Air Rights—How Acquired.) Where necessary, in order to provide unobstructed air space for the landing and taking off of aircraft utilizing airports and landing fields acquired or maintained under the provisions of this chapter, the counties, cities, park districts, and townships may acquire such air rights over private property as are necessary to insure safe approaches to the landing areas of said airports and landing fields. Such air rights may be acquired by grant, purchase, lease, or by right of eminent domain in the same manner as is provided in section 2-02-02 for the acquisition of the airport or landing field itself or the expansion thereof.

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

2-02-06. Authority to Construct, Operate, Regulate, or Lease Airports.) Counties, cities, park districts, and townships which have established airports or landing fields, or which acquire, lease, or set apart real property for such purpose or purposes, may:

1. Construct, equip, maintain, and operate the same, or vest authority for the construction, equipment, improvement, maintenance, and operation thereof, in an officer, board, or body of such political subdivision. The expenses of such construction, equipment, improvement, maintenance, and operation shall be a responsibility of said political subdivision;
2. Adopt regulations and establish charges, fees, and tolls for the use of such airports or landing fields and fix penalties for the violation of said regulations; and
3. Lease such airports or landing fields to private parties for operation, or lease or assign to private parties for operation, space, area, improvements, and equipment on such airports or landing fields, if in each case the public, in so doing, is not deprived of its rightful use thereof.

§ 7. Amendment.) Section 2-02-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2-02-08. Police Power Outside Geographic Limits.) Counties, cities, park districts, and townships acquiring, establishing, developing, operating, maintaining, or controlling airports or landing fields under the provisions of this chapter without the

geographic limits of such subdivisions shall have the same police powers over such airports or landing fields as they may exercise within the geographic limits of such subdivisions.

§ 8. Amendment.) Subsection 4 of section 2-04-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. "Political subdivision" means any county, city, park district, or township.

§ 9. Amendment.) Section 2-05-06.1 of the 1965 Supplement to 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, 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.

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

1. "Municipality" shall mean any county, city, town, park district or public body of this state;

§ 11. Amendment.) Section 2-06-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2-06-20. Out-of-State Airport Jurisdiction Authorized—Reciprocity with Adjoining States and Governmental Agencies.) For the purpose of this section, "governmental agency" means any municipality, city, town, county, public corporation, or other public agency.

This state or any governmental agency of this state having any powers with respect to planning, establishing, acquiring, developing, constructing, enlarging, improving, maintaining, equipping, operating, regulating, or protecting airports or air navigation facilities within this state, may exercise those powers within any state or jurisdiction adjoining this state, subject to the laws of that state or jurisdiction.

Any state adjoining this state or any governmental agency thereof may plan, establish, acquire, develop, construct, enlarge, improve, maintain, equip, operate, regulate, and protect airports and air navigation facilities within this state, subject to the laws of this state applicable to airports and air navigation facilities. The adjoining state or governmental agency shall have the power of eminent domain in this state, which shall be exercised in the manner provided by the laws of this state governing condemnation proceedings, provided that the power of eminent domain shall not be exercised unless the adjoining state authorizes the exercise of that power therein by this state or any governmental agency thereof having any of the powers mentioned in this section.

The powers granted in this section may be exercised jointly by two or more states or governmental agencies, including this state and its governmental agencies, in such combination as may be agreed upon by them.

This section may be cited as the "Extraterritorial Airports Section".

§ 12. Amendment.) Section 5-01-13 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

***5-01-13. Selling or Permitting the Consumption on Licensed Premises on Certain Days Prohibited.)** Every licensee who sells, gives away, or disposes of any alcoholic beverage, or permits the consumption of alcoholic beverages in or on the licensed premises on Memorial Day, Good Friday, Sunday, after six p.m. on Christmas Eve, on Christmas Day, or on the day of any general, primary, special, or local election, in the city or county where held while the polls are open or within one hour thereafter is guilty of a misdemeanor.

*Note: Section 33 of chapter 80, 1967 S.L., repealed section 5-01-13.

§ 13. Amendment.) Section 5-01-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

***5-01-17. County Justice May Conduct Investigation When State's Attorney Fails.)** If the state's attorney has been notified in writing under oath, giving the name of the person violating the law, the place where the unlawful business is carried on, and the names of the witness or witnesses by whom the affiant believes that the facts can be proven, and he fails, neglects, or refuses to make an investigation, the affiant may make affidavit before some county justice of the township,

*Note: Section 33 of chapter 80, 1967 S.L., repealed section 5-01-17.

city, or county wherein the crime has been committed, giving the name of the violator of the law, the location of the place, and the names of the witnesses by whom he believes the offense can be proved, and such county justice shall issue his subpoena for the witnesses named or any other witnesses whose names shall be made known by the first witnesses subpoenaed. The subpoena shall be directed to any sheriff or constable of the county, or any marshal or policeman of any city in the county, for service and return according to law. The county justice may fine for contempt, compel the attendance of witnesses by attachment, and shall have all the powers for securing and taking the testimony of witnesses given to the state's attorney by section 5-01-16. When the evidence is taken by the county justice and reduced to writing, if it shall show that a crime has been committed, it shall be certified to the state's attorney by the county justice taking the same, and the state's attorney, on the receipt of such evidence, shall file his complaint forthwith.

§ 14. Amendment.) Section 5-02-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

***5-02-07. Delegation of Power to Cities.)** The governing body of each incorporated city shall have the following powers:

1. To require licenses for retailers of beer or ale in such city;
2. To license and to deny and revoke licenses for cause;
3. To regulate the business of vendors at retail of beer or ale authorized to be sold by this chapter in their respective jurisdictions, subject to review by the courts;
4. To impose and collect license fees; and
5. To provide for the punishment of any violation of any such regulations.

Such regulations shall be uniform in their application to all persons within such city, and all applicants for license who are qualified under section 5-02-02, shall be granted licenses by any municipality.

§ 15. Amendment.) Section 5-02-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

***Note:** Section 33 of chapter 80, 1967 S.L., repealed section 5-02-07.

***5-02-08. Delegation of Power to Counties.)** The board of county commissioners of each county shall have the same powers, relative to the retailing of beer or ale in the territory in each county outside of incorporated cities, as are granted to the governing boards of incorporated cities in section 5-02-07.

***Note:** Section 33 of chapter 80, 1967 S.L., repealed section 5-02-08.

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

***5-03-03. License for Retail Sales—Fees.)** Any person engaging in the retail sale of liquor first must procure a license from the governing body of the city wherein the said business is to be conducted. The fee for such license shall not be less than two hundred dollars nor more than two thousand dollars to be determined by the governing body of such city. Any person desiring to engage in the retail sale of liquor at a place other than within the incorporated limits of a city first must procure a license from the board of county commissioners of the county in which such business is to be conducted. The fee for such license shall not be less than two hundred dollars nor more than one thousand dollars, to be determined by the said board of county commissioners. The license fees shall be the same to each individual within each of the said political subdivisions respectively, and a license shall not be transferable, except to the executors or administrators of a deceased license holder. Such retail license shall not permit the sale at any time to any person of an amount greater than five wine gallons.

***Note:** Section 33 of chapter 80, 1967 S.L., repealed section 5-03-03.

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

***5-03-04. Wholesale License — Fee — “Wholesale Business” Defined — Licenses to Residents Only.)** Before any person shall engage in the sale at wholesale of liquor within this state he shall first procure from the city where said wholesale business is to be conducted, a license so to do, the fee for which shall be in the sum of not less than five hundred dollars or more than one thousand dollars, to be determined by the governing body of the city. The fee therefor shall be the same to all licensees within each city. The term “wholesale business” as used herein shall mean, for the purpose of determining where the license shall be issued, the place where the home office and principal warehouse are located. If warehouses or offices are maintained in more than one city, a separate license

***Note:** Section 33 of chapter 80, 1967 S.L., repealed section 5-03-04.

shall be had for each said warehouse or office. No wholesaler's license shall be granted to any person or partnership unless the person or each member of the partnership applying for such license shall have been a resident or residents of the state for a period of five years continuously immediately prior to such application for a license, and no license shall be granted to any corporation unless all of the officers and directors and stockholders who control, in the aggregate, more than seventy-five percent of the stock by par value, and seventy-five percent of the voting rights of the stock, of such corporation applying for a license shall have been residents of the state for a period of five years continuously immediately prior to such application. The provisions of this section, except as to payment of license fee, shall not apply to any person, partnership or corporation, or his or its successor in interest, who or which, on February 1, 1949 was the holder of a wholesale liquor license within the state of North Dakota.

§ 18. Amendment.) Section 5-03-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

***5-03-20. Authority of Municipality to Regulate Sale—Revoke License.)** The governing body of any city or county may revoke licenses for cause and may regulate the retail sale of liquor within its jurisdiction, subject to review by the courts of the state.

***Note:** Section 33 of chapter 80, 1967 S.L., repealed section 5-03-20.

§ 19. Amendment.) Section 5-05-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

***5-05-02. License Fee.)** License fees shall be charged on a calendar year basis. Licenses issued after March first in any year shall be prorated from the first of the month in which such licenses are issued. License fees shall be as follows:

Each place licensed for the exclusive off sale of alcohol and alcoholic beverages; or in rural districts, or in cities of less than five hundred population, fifty dollars; each place licensed for the on and off sale of alcoholic beverages; or in cities having more than five hundred population, one hundred dollars.

***Note:** Section 33 of chapter 80, 1967 S.L., repealed section 5-05-02.

§ 20. Amendment.) Section 5-05-03 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

***5-05-03. Qualifications Required for License.)** In addition to qualifications now prescribed by law, no license authorizing the sale at retail of alcoholic beverages shall be issued to any person, partnership, association of individuals, or corporation by the attorney general unless such applicant shall file a sworn application therefor, accompanied by the required fee, and shall show in such application that he possesses the following qualifications:

1. Applicant other than corporate must be a citizen of the United States and of the state of North Dakota and have a legal and bona fide residence in the state of North Dakota, and be a person of good moral character.
2. Applicant shall not have been convicted of a felony, or of pandering or of keeping or maintaining a house of prostitution.
3. Applicant shall not have had revoked, within five years next preceding his application any license issued to him pursuant to the ordinances or resolutions of a city or board of county commissioners, to the laws of this state, or any state, to sell alcoholic beverages.
4. If applicant is a copartnership, all members of the copartnership must be personally qualified to obtain a license.
5. If the applicant is a private or municipal corporation, all officers and directors thereof, and any stockholder owning more than five percent of the stock of such corporation, and the person or persons who shall conduct and manage the licensed premises for the corporation shall possess all the qualifications required herein for an individual licensee; provided, however, that the requirements as to being a resident and citizen of the state shall not apply to nonresident officers, directors, and stockholders of such corporation, but such requirements shall apply to any officer, director, or stockholder who is also the manager of the licensed premises or who is engaged or employed at the licensed premises, in any capacity, in the conduct or operation of the licensed premises.

Any misstatement or concealment of fact in an application shall be ground for revocation of the license issued thereon.

The qualifications or other requirements, herein provided for shall not be deemed to restrict in any manner the qualifications or other requirements required by the governing body of any incorporated city or by the county commissioners of any

***Note:** Section 33 of chapter 80, 1967 S.L., repealed section 5-05-03.

county for the issuance of a license or the operation of such business.

§ 21. **Amendment.)** Section 12-19-25 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-19-25. Unlawful Occupation of Lots and Streets in Municipality—Misdemeanor.) Every person who intrudes or squats upon any lot or piece of land within the bounds of any incorporated city without license or authority from the owner thereof, or who erects or occupies thereon any hut, hovel, shanty, or other structure, without such license or authority, and every person who places, erects, or occupies within the bounds of any street or avenue of any city, any hut, hovel, shanty, or other structure, is guilty of a misdemeanor.

§ 22. **Amendment.)** *Subsection 2 of section 12-21-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. Public sports, including shooting, sporting horse racing, or other public sports, circuses, and street carnivals. This section shall not apply to baseball when authorized by the governing body of any municipality to be played within the territorial limits of such municipality or by the board of county commissioners when played outside the limits of cities and when conducted in a quiet and orderly manner so as not to interfere with the peace, repose, and comfort of the community and when played after one o'clock p.m. on the Sabbath day more than five hundred feet away from any church edifice.

§ 23. **Amendment.)** Subsection 5 of section 12-41-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

5. Digging, taking, or carrying away from any land in any incorporated city of this state, laid out on the map or plat of said city as a street or avenue, or otherwise established or recognized as a street or avenue without the license of the governing body of such city, or owner of the fee thereof, any earth, soil, or stone, under such circumstances as would render the trespass a larceny if the thing so severed or carried away were personal property; or

§ 24. **Amendment.)** Section 15-27-01 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

*Note: Section 9 of chapter 107, 1967 S.L., repealed section 12-21-15.

15-27-01. Public School Districts—Areas Which Are or May Become.) All school districts in the state of North Dakota, except the Fargo school district, are public school districts and shall be governed by the provisions of this chapter. Any area may be constituted a public school district in the manner prescribed in this chapter and chapter 15-53, and shall be governed thereafter by the provisions of this chapter. When any territory or area is added to a city, such addition, upon incorporation into the city, shall become a part of the school district comprising or embracing the city. The term "city" as used in this chapter shall include any community or communities established or which have come into existence as a result of federal projects carried on within this state and which are situated upon government owned property.

§ 25. Amendment.) Section 15-35-13 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-35-13. Superintendent of Public Instruction May Order Change in Sanitary or Ventilating Systems—Appeal—Penalty.) If it shall appear to the superintendent of public instruction that the sanitary or ventilating system of any school building is defective or deficient and that such defect or deficiency can be remedied without unreasonable expense, he may issue a written order to the school board of the district in which the schoolhouse is situated directing that such defect or deficiency shall be remedied. The members of any board or any person having charge of any schoolhouse who shall neglect for four weeks after an order made by the superintendent under the provisions of this section is served upon such board or person to comply with such order shall be punished by a fine of not less than one hundred dollars nor more than one thousand dollars. Any person feeling aggrieved by any order made by the superintendent of public instruction under this section may apply in writing, within four weeks after the service of the order, to the city board of health, in the case of a school located within a city, or to the county board of health in all other cases, for a review of the order, and may request that such order be amended or set aside. The board of health to which the application is directed shall afford a hearing upon the order upon such reasonable notice as it shall specify and may alter, annul, or affirm such order.

§ 26. Amendment.) Section 16-09-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

***16-09-02. Precinct Divided Into Two Precincts When More Than Five Hundred Votes Cast in Precinct.)** If more than five hundred votes are cast in any election in a precinct in which voting machines are not used, the inspector of such precinct shall report such fact to the board of county commissioners, or, if the precinct is in a city, to the governing board thereof, and such board at its next regular meeting shall divide such precinct into two precincts as nearly equal to each other in voting strength as may be possible.

***Note:** Section 40 of chapter 158, 1967 S.L., also amends section 16-09-02.

§ 27. Amendment.) Section 16-09-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

***16-09-03. Municipality May Ask That Precinct Be Divided Into Two Precincts.)** If more than three hundred votes are cast in any precinct in any city in this state, the board of county commissioners, upon an official request of the governing body of such city, may divide such precinct into two precincts as nearly equal to each other in voting strength as may be possible.

***Note:** Section 41 of chapter 158, 1967 S.L., also amends section 16-09-03.

§ 28. Amendment.) Section 18-01-06 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

18-01-06. Fire Chiefs and Auditors or Secretaries of Cities and Rural Fire Protection Districts Must Report Fires.) Within five days after the occurrence of any fire in which property in a city or rural fire protection district has been destroyed or damaged in an amount which exceeds twenty-five dollars, the fire chief of such city or rural fire protection district, if a fire department is maintained therein, or the auditor of the city or the secretary of the rural fire protection district, if a fire department is not maintained therein, shall report the cause, if known, and the origin and circumstances of the fire and the name of the owner and occupant of such property, to the state fire marshal. Such report shall show whether such fire was the result of carelessness, accident, or design. The provisions of this section shall be complied with, insofar as the same are applicable, if the fire is of unknown origin, regardless of the amount of damage caused thereby.

§ 29. Amendment.) Section 18-01-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

18-01-08. Compensation of Fire Chiefs and Executive Officers of Municipalities for Reporting to Fire Marshal.) There shall be paid to the chief of the fire department and to the auditor of each city, who does not receive fifty dollars or more annually as compensation for his services as such and who is required by this chapter to report fires to the state fire marshal, a fee of one dollar and fifty cents for each fire reported to the satisfaction of the fire marshal. Such fees shall be paid at the close of each fiscal year out of funds appropriated for that purpose by the legislative assembly.

§ 30. Amendment.) Section 18-04-01 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

18-04-01. Eligibility for Participation in Fund Created from Premium Tax on Fire Insurance Companies.) In order to become eligible for the benefits provided under this chapter, a city, or one or more townships, or fire districts, shall maintain therein for a period of at least eight months prior to the filing of the certificate required under section 18-04-02 an organized fire district or department which:

1. Has been in actual existence for the period herein specified;
2. Has had as a part of its equipment at least one steam, hand, or other fire engine, truck;
3. Has had a membership of at least fifteen persons. Such department or district also must be a member of the North Dakota firemen's association in good standing at the time the benefits are paid; and
4. Change in a fire department's name, or incorporation into a fire district, shall be deemed a waiver of the eight-month waiting period for filing a certificate of existence under section 18-04-02.

§ 31. Amendment.) Section 18-04-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

18-04-02. City Auditor or Secretary of Rural Fire Department to File Certificate with Department of Accounts and Purchases and Commissioner of Insurance.) On or before the thirty-first day of October in each year, the auditor or secretary of any city or rural fire department which has an organized fire department shall make and file with the department of accounts and purchases and with the commissioner of insurance his certificate stating the existence of the fire department, the date of its organization, the number of steam,

hand, or other fire engines, hook and ladder trucks, and hose carts in actual use, the number of organized companies in the department, the number of members in each company, and the system of water supply in use by the department, together with such other facts as the department of accounts and purchases or commissioner may require.

§ 32. **Amendment.)** Section 18-04-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

18-04-03. Failure to File Certificate Deemed Waiver—Exception.) If the certificate required by section 18-04-02 is not filed with the department of accounts and purchases and commissioner of insurance on or before the thirty-first day of October, the city or rural fire department failing to file the same shall be deemed to have waived and relinquished its rights for such year to the benefits of this chapter. If however, the city or rural fire department has filed its certificate for three successive years and has drawn money thereunder for such time, the certificate may be filed at any time up to and including March first of the succeeding year without waiving the right to the benefits provided in this chapter.

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

18-04-04. Insurance Companies to Report Fire Insurance Premium Collections—Form Furnished by Commissioner of Insurance.) The commissioner of insurance, when he forwards to an insurance company which is writing fire insurance in this state the form to be used in submitting its annual statement, shall forward a form containing the names of all cities entitled to benefits under the provisions of this chapter. Every insurance company writing fire insurance within this state shall complete such form by showing thereon the amount of all premiums received by it upon policies issued on property within the corporate limits of each city shown on such form during the year ending on the preceding thirty-first day of December, and shall file the same as a part of its annual statement.

§ 34. **Amendment.)** Section 18-04-05 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

***18-04-05. Amount Due Cities or Rural Fire Departments—Certificate of Commissioner of Insurance to Department of Accounts and Purchases.)** The amount due to a city not encompassed by a fire district under the provisions of this chapter

*Note: Section 1 of chapter 163, 1967 S.L., also amends section 18-04-05.

shall be two and one-fourth percent of the premium received by insurance companies on fire and extended coverage insurance policies issued on property in such cities. The commissioner of insurance shall compute the amounts due to the several cities and shall certify such amounts to the department of accounts and purchases on or before June first in each year. The commissioner of insurance shall certify to the department of accounts and purchases on or before June first of each year an additional one hundred dollars to be paid to each city fire department performing service outside of its incorporated limits. For each rural fire department or district organized within the provisions of this chapter, the amount of two hundred dollars per year shall be certified to the department of accounts and purchases, plus two and one-fourth percent of fire and extended coverage insurance premiums paid in any city encompassed in a fire district. There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated as a standing and continuing appropriation, such sums as may be necessary to make payments as provided in this section.

§ 35. Amendment.) Section 18-04-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

18-04-07. Disbursement of Fund by City Treasurer.) Moneys received by the city treasurer under the provisions of this chapter shall be disbursed as follows:

1. In a city having a paid fire department, such amount shall be placed in a fund to be disbursed by the governing body of the municipality in maintaining such fire department. If the municipality has a duly organized and incorporated firemen's relief association, the amount shall be disbursed in accordance with section 18-05-04;
2. In a city having no paid fire department, such amount shall be paid over to the treasurer of the fire department, or to the treasurer of each separately organized fire company which satisfies the requirements of section 18-04-01 in equal proportions when there are more than one in the municipality, upon the written order of such department or companies approved by the governing body of the municipality.

§ 36. Amendment.) Section 19-01-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-01-05. Sheriff as Local Inspector—Compensation, Duties.) The director of the department shall appoint the sheriff of each county as the local inspector for his county. The sheriff, under

the direction and supervision of the department, shall perform such duties and make such inspections as shall be assigned to him by the department, and shall be responsible for the enforcement within his county of the directions given to him. He shall collect all fees and charges which may be collected under the provisions of this title or of any regulatory provision enforced by the department, and shall account to the department therefor on or before the first of each month and at such other times as may be required by the department. He may call upon the state's attorney of his county and upon any other law enforcement officer of his county or of any city within his county to assist him in the enforcement and administration of the directions of the department. The sheriff and those assisting him shall receive no additional compensation for work performed under the directions of the department but shall be allowed traveling expenses allowed in the performance of the other duties of their respective offices. Such traveling expenses shall be paid out of the appropriations made for the department by the legislative assembly.

§ 37. Amendment.) Subsection 1 of section 21-01-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-01-01. Definitions.) 1. The term "taxing district" when used in this chapter, unless the context thereof clearly requires otherwise, shall mean any county, city, school district, township, park district, water conservation and flood control district, "Garrison diversion conservancy district", county park district, joint county park district, or irrigation district in the state.

§ 38. Amendment.) Section 21-01-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-01-06. Registration of Warrants—Rate of Interest.) Whenever the law authorizes the officers of any taxing district to issue warrants in excess of the amount of cash available in any fund upon which warrants are drawn for payment, the treasurer of such taxing district, when any such warrant is presented to him for payment, if not paid for want of funds, shall endorse the same "Presented for payment this..... day of....., 19....., and not paid for want of funds", and thereupon shall enter such warrant in his warrant register in the order of presentation for registration. The governing body of any such taxing district authorizing the issuance of warrants in excess of cash on hand shall determine the rate of interest which such warrants shall bear, but in the case of counties and cities such rate shall not exceed five

percent per annum from the date of registration until the expiration of the time specified for presentment for payment.

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

21-02-02. Certificates of Indebtedness—By Whom Issued—Term—Interest—Tax When Deemed Levied.) Counties, cities, townships, school districts, park districts, irrigation districts, water conservation and flood control districts, Garrison diversion conservancy district, county park districts, or joint park districts shall have power to borrow in anticipation of revenues to be derived from taxes already levied. The aggregate amount of such borrowings at any time shall not exceed the amount of uncollected taxes which have been levied during the year in which the borrowing is made, plus uncollected taxes remaining upon the tax lists of the four preceding years, exclusive of levies for the purpose of retiring bond issues and the interest thereon. For the purpose of borrowing, all such taxing districts may issue certificates of indebtedness. A certificate of indebtedness shall consist of an agreement on the part of the taxing district to pay a stated sum on a specified date, or on or before a specified date, not more than twenty-four months in the future, together with interest thereon at a specified rate not exceeding seven percent per annum, which may be made payable semi-annually. Such certificate shall be signed on behalf of the district by its president or chairman and also by its auditor or secretary, and shall be payable out of funds derived from uncollected taxes levied for the current tax year and four previous years which have not been set aside for the payment of other certificates of indebtedness pursuant to sections 21-02-07, 21-02-08, and 21-02-09. However, a certificate of indebtedness shall be the general obligation of the issuing taxing district.

§ 40. **Amendment.)** Section 21-02-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-02-06. Certifying Amount of Uncollected Taxes.) The county auditor at any time, upon request of the officers of any taxing district, shall certify to them the amount of uncollected taxes remaining upon the tax lists to the credit of such district on the last day of the preceding month, and annually shall certify such information to the clerk of each township on February fifteenth, to the auditor of each city on September tenth, and the clerk of each school board on June tenth. The county auditor also shall certify to the clerk, auditor, or secretary of each such taxing district monthly, at the time of making

the monthly apportionment of funds, the amount of cash collections apportioned for that month to such taxing district and the amount derived from levies of each tax year.

§ 41. Amendment.) Subsections 1 and 2 of section 21-03-01 of the 1965 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

1. "Municipality" shall mean a county, city, township, public school district, or park district empowered to borrow money and issue written obligations to repay the same out of public funds or revenue;
2. "Governing body" shall mean a board of county commissioners, city council, board of city commissioners, school board of any school district, and the similarly constituted and acting board of any other municipality enumerated in subsection 1 of this section.

§ 42. Amendment.) Subsection 1 of section 21-03-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. To issue of bonds, warrants, or other forms of public securities issued on account of public improvements and for the payment of which special assessments are or shall be levied upon and against property benefited thereby which do not constitute, at the time of their issuance, a general obligation or fixed liability of the municipality issuing the same, nor the portion of any such issue payable by general taxation on account of assumption of a portion of the cost of such improvement under section 40-24-10 or any similar law. Nothing in this subsection shall be construed to prevent the issuance of bonds by any city for the purposes specified in section 21-03-06, subsection 2, subdivision g;

§ 43. Amendment.) Subsection 2 of section 21-03-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. The governing body may issue bonds of the municipality for the purpose and within the limitations specified by section 21-03-06, subsection 2, subdivision g, and section 21-03-06, subsection 7, without an election;

§ 44. Amendment.) Subsection 2 of section 21-03-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. Proposed by filing a copy thereof in the office of the auditor or secretary of the municipality, together with a petition signed by legal voters of the municipality

aggregating in number one-fourth of the number of legal voters of the municipality, as shown by the poll book for the last preceding annual or general election held therein, or if such poll book was not kept, then as shown by a census of the voters of such municipality verified by the affidavit of one of such petitioners. Such petition shall ask that an election on the question of issuing such bonds be called. Upon the filing of such proposed initial resolution and petition, the governing body shall call such election in the manner specified by section 21-03-11.

§ 45. Amendment.) Section 21-03-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-03-12. Notice of Election To Be Given.) The auditor, secretary, or similarly acting officer, by whatever name designated, of the municipality shall give notice of election by causing a notice thereof to be published once each week for at least two weeks prior to the date thereof in the official newspaper of such municipality, if any, or if it has none, in any newspaper published therein, or if no newspaper is published therein, then by posting copies of such notice in five public places in the municipality. The date of such posting or first publication shall be at least fifteen days before the date of such election, exclusive of the day of such posting or first publication. Such notice shall specify the date, polling hours, and polling places of such election and shall contain a complete copy of the initial resolution and a statement that the question to be submitted thereat shall be whether said initial resolution shall be approved. If said question is to be submitted at a municipal election, the notice herein prescribed may be separate from the notice of such municipal election and may refer to the notice of such municipal election for the designation of polling places.

§ 46. Amendment.) Section 21-03-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-03-17. Record of Proceedings.) Every municipality shall provide and keep a record book in which its auditor or secretary shall record a full and correct statement of every step or proceeding had or taken in the course of authorizing and issuing municipal bonds, including a statement of the affirmative and negative votes cast by the electors.

§ 47. Amendment.) Section 21-03-24 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-03-24. Destruction of Bonds Not Sold Within Three Years.) All bonds authorized pursuant to this chapter which are not delivered to the purchaser and paid for within three years of their date shall be canceled. The registering and certifying officer, in the presence of at least two electors of the municipality which authorized their issuance, shall destroy such bonds by the burning thereof, and with such witnesses shall make and file in the records of his office an affidavit as to the bonds so destroyed and the time and place of such destruction. He also shall make a record thereof in a proper book of record in his office. A copy of such affidavit shall be filed with the auditor or secretary of the municipality which authorized their issuance.

§ 48. Amendment.) Section 21-03-25 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-03-25. Bonds — Advertised for Bids — Exception.) No municipality shall sell or enter into any contract for the sale of any issue of its bonds authorized by this chapter, for whatever purpose issued, without first advertising for bids in the manner prescribed by section 21-03-26, except that bonds issued under the authorization of section 21-03-06, subsection 2, subdivision g, with the consent of the warrant holders, may be exchanged for matured warrants or matured interest coupons of warrants of the special improvement fund having the deficiency on account of which such bonds are being issued, without such advertising. The par value and accrued interest of the bonds so delivered shall not exceed the par value and accrued interest of the warrants and interest coupons, and accrued interest thereon, for which they are exchanged.

§ 49. Amendment.) Section 21-03-26 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-03-26. Bonds—Call for Bids—How Advertised—Copy to Tax Commissioner.) A notice calling for bids for each proposed issue of municipal bonds shall be published at least once in the official newspaper of the county in which the municipality is situated not less than fifteen days nor more than thirty days before the date specified therein for the receiving of such bids. Such notice may be in any form but shall specify the amount of bonds offered for sale and the date of the maturity thereof. A copy of such notice shall be mailed to the state tax commissioner at Bismarck not less than fifteen days before the date specified for the opening bids, and the tax commissioner shall keep such notice on file for public inspection. The county auditor, or the auditor or secretary of the

municipality advertising such sale, at the same time, shall file with the tax commissioner a statement giving the assessed valuation, the area, the population, and the indebtedness thereof. Failure to publish such notice or to send a copy thereof to the tax commissioner shall not impair the validity of such bonds but shall render unenforceable any executory contract entered into for the sale thereof. An auditor or secretary failing to publish or to send such notice shall be subject to a penalty of not more than five hundred dollars, at the discretion of the district court, to be recovered in an action brought by the state's attorney in the name of the state. The penalty, when collected, shall be paid into the general fund of the county. If such failure to publish or send such notice is willful, the auditor or secretary is guilty of a misdemeanor and shall be punished accordingly.

§ 50. Amendment.) Section 21-03-27 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-03-27. Bids — Where Received — Record.) The notice shall specify the time and place at which bids will be received. In case of cities, school districts, or park districts of over four thousand population, the place where bids shall be received may be fixed by the governing board. In all other cases, the place shall be the county auditor's office. At the time and place specified, the governing board of the taxing district shall be represented by one of its officials, or by the county auditor or some other person acting at the request of the board, who shall receive competitive bids, whether submitted orally or in writing. When the bids are received at his office, the county auditor shall enter in a permanent record the amount and rate of interest of each bid and the name and address of the bidder. If the bids are not received at the office of the county auditor, the auditor or secretary of the municipality shall make a similar record.

§ 51. Amendment.) Section 21-03-29 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-03-29. Unlawful for Official to Accept Compensation from Bidder.) No auditor, secretary, or other official of a municipality shall accept from a bidder or prospective bidder at a sale of bonds, a commission or any other compensation for his services rendered or to be rendered in connection with the issuance, sale, or delivery of such bonds.

§ 52. Amendment.) Section 21-03-31 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-03-31. Notice to State or State Departments.) At least thirty days before any county, township, school district, city, park district, or other municipal corporation within the state of North Dakota, which may be authorized by law to issue and sell bonds for any purpose whatever shall sell and deliver such bonds, the governing board shall notify, by registered or certified mail, the board of university and school lands, the state fire and tornado fund, the workmen's compensation bureau, the state bonding department, the bank of North Dakota, and the industrial commission of this state, that such bonds will be offered at public vendue, giving in said notice complete and detailed information relating to said bond issue and the time and place at which such bonds will be offered for sale.

§ 53. Amendment.) Section 21-03-34 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-03-34. Registration of Ownership of Bonds—How Made.) The holder of any bond payable to "bearer or registered owner", as authorized by section 21-03-18, issued by any municipality, may have the ownership thereof registered as to the principal thereof by the county auditor, or in the case of a municipality of over four thousand population, by the auditor or secretary of the municipality issuing the same, or such other officer as the governing body of the municipality may determine. Registration by such officers shall be made in the bond register and shall be noted on the bond.

§ 54. Amendment.) Subsections 1, 2, and 3 of section 21-04-01 of the 1965 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

1. "Public corporation" shall include a county, city, township, school district, and any body corporate except a private corporation;
2. "Board" shall mean the governing board of any public corporation, including the board of county commissioners, the city council, the board of city commissioners, the school board, the board of township supervisors, and the park board;
3. "Clerk" shall mean the person who performs for any public corporation the duties ordinarily performed by a clerk, including the county auditor, the city auditor, the township clerk, and the clerk of the school board;

§ 55. Amendment.) Section 21-04-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-04-06. Designating Public Depositories Where There Is Only One Bank or No Bank.) In a county where only one bank is located or functioning, the board may designate such bank as a depository, or it may designate another state or national bank or banks within the state, or the bank of North Dakota, as depository in the manner and upon the conditions provided in this chapter. In a county where no bank is in existence or functioning, the board may designate the bank of North Dakota, or any state or national bank outside of such county and within the state, as depository in the manner and upon the conditions provided in this chapter for the selection of depositories of public funds. In case there is no bank within any city, township, or school district, the governing board thereof, if it deems it more advantageous and for the best public interest and convenience, may select as a depository a conveniently located bank in an adjoining county, which thereupon shall qualify as a depository by giving such bond as is required from a bank within said county. Said bond shall be approved by such governing board as to sufficiency and by the state's attorney of the county in which such city, township, or school district is located as to form, and shall be deposited in the office of the county auditor of such county.

§ 56. Amendment.) Section 21-06-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-06-05. Documents Which May Be Destroyed — When.) All bonds, bond coupons for interest, warrants, special assessment warrants, and any and all other documents evidencing debt made or executed by any city or park district in the state may be destroyed when ten years have elapsed after their payment, and when the period within which an action might be commenced to determine the validity of such documents has expired.

§ 57. Amendment.) Section 21-06-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-06-06. Procedure for Destruction of Documents.) The governing body of any city or park district desiring to destroy any documents described in section 21-06-05, at its first meeting in January of each year, shall procure from the auditor or clerk of such city or park district a list of such documents which have been paid more than ten years prior to such time and against which the period within which an action might be commenced to determine the validity of such documents has expired, which said list shall contain a full statement and description of the documents desired to be destroyed, and thereupon shall check

said documents with such lists. If found correct, the said governing body by resolution shall order said documents to be destroyed and in said resolution shall provide the manner of such destruction. The list provided for in this section shall be filed in the office of the city auditor or clerk of park district and retained as a permanent record.

§ 58. Amendment.) Section 21-06-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

***21-06-07. Political Subdivisions May Invest Surpluses in Government Bonds.)** From and after the passage and approval of this section, it shall be lawful for counties, cities, school districts, park districts and townships in this state to invest surpluses in their general fund, or surpluses in any special or temporary fund, in government bonds of the United States, provided, however, that bonds so purchased shall be taken into consideration in making levies for the ensuing year, and when funds are needed for current expenses, the governing board and authorities of such municipalities shall be authorized to convert said bonds into cash.

§ 59. Amendment.) Section 21-06-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-06-09. Authorization to Make Loans or Accept Grants.) The state, any of its departments, boards, bureaus or commissions, by and with the approval of the governor, may make loans, or accept advances from the federal government, any agency or instrumentality thereof, for the purpose of aiding in financing the cost of architectural, engineering, and economic investigations and studies, surveys, designs, plans, working drawings, specifications, procedures, and other actions preliminary to the construction of public works and improvements, and may repay to the federal government, any of its agencies or instrumentalities thereof, such loans or advances at such times as the construction of said public works or improvements so planned are undertaken; and any county, city, park district, school district and township, may likewise, by action of the governing body of the same, also make such loans and accept such advances and repay the same in the same manner. Such loans made or grants accepted, may be made or accepted under such rules and regulations as the federal government, or any of its agencies or instrumentalities may prescribe. Provided, however, that neither the state, any of its boards, bureaus, departments or commissions, nor any of the political subdivisions enumerated herein shall incur any lia-

***Note:** Section 1 of chapter 194, 1967 S.L., also amends section 21-06-07.

bility for the payment of such loans or advances unless the actual construction of such public works and improvements is undertaken; and provided, further, that the provisions of this section shall not be construed to apply to loans, grants or advances to the state highway department made or to be made by the federal government, any agency or instrumentality thereof, or to such loans, grants or advances made to political subdivisions by the said state highway department.

§ 60. Amendment.) Subdivision b of subsection 1 and subdivision c of subsection 2 of section 23-02-13 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

- b. The name of the city, or if the birth occurs outside of the limits of any city, the name of the township; and
- c. The city of her residence, or if her residence is outside of the limits of any city, the name of the township in which she resides; and

§ 61. Amendment.) Subdivision b of subsection 1 and subdivision c of subsection 2 of section 23-02-30 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

- b. The name of the city, or if the death occurs outside of the limits of any city, the name of the township;
- c. The city of his residence, or if his residence is outside of the limits of any city, the name of the township in which he resided;

§ 62. Amendment.) Subsections 2, 3, and 4 of section 23-03-07 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

2. Supervise the township boards of health within his county;
3. Furnish, at the expense of the county board of health, to the clerk of each township and to each physician within his jurisdiction, proper blanks for reporting to him all contagious and infectious diseases, and he shall instruct such persons in the proper method of making the reports;
4. Execute by agents appointed by him the duties of any township board of health in his county which neglects or refuses to perform its duties or to execute the rules, orders, or regulations of the county board of health;

§ 63. Amendment.) Section 23-03-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-03-11. Township Boards of Health — Who Constitute.)

The supervisors of each civil township shall constitute the township board of health. Such boards of health shall be under the supervision of the county superintendent of public health and the state department of health.

§ 64. **Amendment.)** Section 23-05-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-05-01. Powers and Duties of Local Board of Health.) The county, city, and township boards of health shall be known as local boards of health, and each board shall have the following powers and duties within its jurisdiction:

1. To employ such persons as may be necessary to carry into effect the regulations established by it and the provisions of this title;
2. To inquire into all nuisances, sources of filth, and causes of sickness, and make such regulations regarding the same as are necessary for the public health and safety, but the regulations of the township board of health shall be temporary, and such board, immediately upon taking such action, shall report the same to the county superintendent of public health, who shall give the board specific instructions or take such action as he deems necessary for the protection of public health;
3. To adopt such quarantine and sanitary measures as are necessary when an infectious or contagious disease exists in its jurisdiction;
4. To provide such necessities of life as in its judgment shall be needed for the maintenance, welfare, and comfort of persons afflicted with contagious and infectious diseases;
5. To enter into and examine at any time all buildings, lots, and places of any description within its jurisdiction for the purpose of ascertaining the conditions thereof insofar as public health may be affected; and
6. To make such rules and regulations as are necessary and proper for the preservation of public health and safety.

§ 65. **Amendment.)** Section 23-05-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-05-04. Abatement and Removal of Nuisance, Source of Filth, and Cause of Sickness—Costs Charged Against Property.) When it is necessary for the protection of the public health to abate or remove any nuisance, source of filth, or cause

of sickness found on private property, the local board of health shall cause a notice to be served on the owner or occupant thereof requiring him to remove the same at his own expense within a reasonable time, not to exceed twenty-four hours. If the owner or occupant refuses or neglects to comply with such notice or if the nuisance, source of filth, or cause of sickness exists on the property of nonresident owners or upon property the owners of which cannot be found, the board of health shall cause the nuisance, source of filth, or cause of sickness to be removed or destroyed under its direction, at the expense of the county, city, or township, as the case may be, but such expense shall be charged against the lots, pieces, or parcels of land upon which the work was done.

§ 66. Amendment.) Section 23-05-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-05-05. Assessment of Costs for Removal of Nuisance Against Property—How Made.) In a city the cost of the removal or destruction of a nuisance, source of filth, or cause of sickness by the local board of health shall be assessed against the property by the city engineer, or, in a city having no city engineer, by the street commissioner, who shall return the assessment and file it in the office of the city auditor. The city auditor shall cause the amount of the assessment, together with a notice of the time when and place where the governing body will meet to consider the approval thereof, to be published in one issue of the official newspaper of the city at least ten days prior to the meeting of the governing body at which the approval of the assessment will be considered. In a township, or county, the governing body shall levy and assess such costs against the land properly charged therewith. The city auditor or township clerk, as the case may be, shall deliver the assessment roll to the county auditor, who shall extend the assessment in the proper column against the property assessed. Each assessment shall be collected and paid as other taxes are collected and paid.

§ 67. Amendment.) Subsection 1 of section 23-05-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. In the case of a township board of health, such expenses shall be certified to the township clerk and by him paid out of the general fund of the township; and

§ 68. Amendment.) Section 23-05-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-05-08. Expenses of Local Boards of Health Chargeable Against Patient—Payment by County for Indigents.) All expenses incurred by local boards of health for the care, medical attendance, or support of any person afflicted with a communicable disease shall be a charge upon such person and upon the person legally chargeable with his support, and may be collected by suit in the name of the township, city, or county which incurred such expense. If, after due investigation, the township, or city board of health is satisfied that such sick person, or the person legally chargeable with the support of such person, is too poor to pay the expenses incurred in his behalf, the local board of health shall make an endorsement to such effect on the bill of expenses incurred in the case, and the clerk of the township or the city auditor of the city, shall send a certified statement of the bill of expenses with the endorsement of the local board of health to the county auditor. The statement shall contain the date upon which the claim was allowed, to whom it was allowed, for what purpose it was allowed, and the amount allowed, and an itemized statement of the expenses incurred. Upon receipt of the statement, the county auditor shall refer the same to the county board of health, and if approved by the county board of health, the county auditor shall issue his warrant upon the county treasurer, payable out of the general fund of the county, for the amount allowed by such township or city. The warrant shall be made payable to the treasurer of the township or city, as the case may be.

§ 69. Amendment.) Section 23-05-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-05-10. Health Officer—Neglect of Duty—Penalty.) Any state, county, township, or city health officer, or any member of any local board of health, who neglects or refuses to perform any of the duties of his office is guilty of a misdemeanor and shall be punished by a fine of not less than ten dollars nor more than fifty dollars, or by imprisonment in the county jail for not more than thirty days, or by both such fine and imprisonment.

§ 70. Amendment.) Section 23-07-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-07-04. Report of Reportable Disease by Township Board of Health.) Each township board of health shall report to the county superintendent of public health all cases of reportable diseases occurring within its jurisdiction. Such reports shall be made on blanks furnished by the county superintendent of public health at the expense of the county board of health.

§ 71. Amendment.) Section 23-14-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-14-01. Formation of Health Districts.) When in the opinion of the state health officer, on information obtained in cooperation with local officers and boards, the health needs of any given area may be better served by the formation of a health district, as hereinafter provided, the state health officer shall so notify the county auditor of each county involved and the city auditor of each city having a population in excess of fifteen thousand persons. Each county auditor and city auditor must place the matter before the governing board of the county or city at its next regular meeting, and the governing board by resolution either must adopt or reject the plan at the same or the first subsequent meeting. If resolutions are adopted by the governing boards of the cities and counties as hereinbefore provided, adopting the health district plan, all laws and parts of laws in conflict therewith automatically shall become inoperative throughout the territory embraced within the district, and particularly the laws relative to city, township, and county boards of health. If the board of county commissioners of any county or the city council or city commission of any city, rejects the plan, it may submit the question of adoption of the provisions of this chapter to the electors of the county or city at the next ensuing general or special election to be held in said county or city. In all elections held under the provisions of this chapter the vote cast in the cities having a population in excess of fifteen thousand inhabitants shall be considered separate and apart from the vote cast elsewhere in the county, and the participation in the health district by any city shall be governed by the votes cast in the city as distinguished from the vote cast elsewhere in the county. If a majority of the electors vote in favor of the adoption of the provisions of this chapter, the board of county commissioners, within ten days after the canvass of said election, shall adopt such resolution, and, upon the adoption of such resolution such county or counties, together with the cities voting in favor of the plan, shall be considered a district health unit or health district. On a petition filed with the county auditor containing names of electors of the county equal to ten percent of the votes cast for the office of governor at the last general election, an election on the question of forming a health district shall be held as heretofore provided. The health districts shall follow county lines, and in case the district as outlined by the state health officer includes more than one county, and the plan is adopted in any of said counties or cities, and rejected in any one or more of the other counties or cities, it shall become effective in the county or counties and city or cities adopting the plan, if in

the exercise of his discretion the state health officer deems the same operative.

§ 72. **Amendment.)** Section 23-14-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-14-07. Duties of Health Officer.) The district health officer shall perform all the duties and shall be guided by the limitations prescribed by law relative to county, city, and township health officers, and he shall make such reports to the state department of health as may be required by it.

§ 73. **Amendment.)** Section 23-15-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-15-03. Public Display of Fireworks Permitted by Municipality or Fair Association Within Its Limits—Supervised Display Allowed—Permit Required—Duty of Fire Marshal to Establish Regulations.) This chapter shall not prohibit supervised public displays of fireworks by cities, fair associations, amusement parks, and other organizations. Except when such display is given by a municipality or fair association within its own limits, no display shall be given unless a permit therefor has first been secured. Every application for such a permit shall be made in writing to the city auditor at least fifteen days in advance of the date of the display. The application promptly shall be referred to the governing body of the city which shall make an investigation to determine whether the operator of the display is competent and whether the display is of such character and is to be so located, discharged or fired that it will not be hazardous to property or endanger any person. Such governing body shall report the results of this investigation to the city auditor and if it reports that in its opinion the operator is competent and that the display as planned will conform to safety requirements, including the rules and regulations of the state fire marshal hereinafter provided for, such auditor shall issue a permit for the display when the applicant pays a permit fee of two dollars. When the supervised public display for which a permit is sought is to be held outside the limits of an incorporated municipality the application shall be made to the county auditor and the duties imposed by this chapter upon the city auditor shall be performed in such case by the county auditor. The duties imposed on the governing body of the city by this chapter shall be performed in such case by the board of county commissioners. After such permit shall have been granted, sales, possession, use and distribution of fireworks for such display shall be lawful for that purpose only. No permit granted hereunder shall be transferable. The state fire marshal

shall adopt reasonable rules and regulations not inconsistent with the provisions of this chapter to insure that fireworks displays are given safely.

§ 74. **Amendment.)** Section 23-24-02 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-24-02. Petition for Establishment of Vector Control Districts — Hearing Thereon and Investigation — District When Created.) Whenever there is filed with the state health council a petition signed by the governing body of a county, city or township or by twenty percent or more of the freeholders within the limits of a proposed vector control district, the state health council shall fix a time and place for a public hearing on such petition. The place of hearing shall be convenient and accessible for a majority of the freeholders of the proposed district. Not less than ten days prior to the date of hearing, notice thereof shall be published in at least one newspaper of general circulation in the proposed district. Prior to such hearing the state health officer shall make or cause to be made an investigation of the need for the establishment of the proposed vector control district and shall submit his report to the council. If the state health council finds that it is not feasible, desirable or practical to establish the proposed district, it shall make an order denying the petition and state therein the reasons for its action. If, however, the council shall find the problems of vector control or other reasons make the establishment of the proposed district desirable, proper and necessary, it shall grant the petition and create such district and establish the boundaries thereof.

§ 75. **Amendment.)** Section 23-24-05 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-24-05. Board of Commissioners — Appointment and Number.) When an order of the council creating a vector control district has been filed in the office of the county auditor of a county in which such district or a part of such district is situated a board of commissioners of such vector control district shall be appointed as provided herein, consisting of three members. Any resident freeholder in the district shall be eligible for appointment to the board of commissioners thereof. The term of commissioners first appointed shall be determined by lot. 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. The term of a commissioner shall commence on the date of his appointment. In case the office of a commissioner shall become vacant, the commissioner ap-

pointed to fill the vacancy shall serve the unexpired term of the member of the board of commissioners and shall receive the same per diem as members of the board. Members shall receive the same per diem as members of the 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 a member shall be deemed to have commenced on the date of his appointment to the board. Appointments to the board of commissioners shall be made by the state health council with the approval of the board of county commissioners, the board of city commissioners or township supervisors of any county, city, or township whose territory is embraced or included within said district.

§ 76. **Amendment.)** Section 23-24-06 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-24-06. Oath of Office—Organization of Board of Commissioners — Appointment of Employees — Meetings.) Upon receiving notice of his appointment as a member of the board of commissioners of a vector control district, such appointee shall take the oath of office prescribed for civil officers. Such oath shall be filed with the secretary of the board after organization thereof as herein provided. Notice of the appointment of a member or members of a board of commissioners shall be mailed to the governing body of the county, city, or township included within said district. Such notice shall state the name and post office address of each appointee and the date of his appointment and shall request approval of the same. The commissioners appointed after their approval shall meet to organize at a time and place designated by the state health council and shall organize by selecting a chairman of the board and naming a temporary secretary pending appointment of a permanent secretary. A majority of the commissioners shall constitute a quorum for the transaction of business as may come before the board but any number may adjourn a meeting for want of a quorum. The board shall appoint a secretary and treasurer and such other employees as may be deemed needed for efficient conduct of the district's business and shall fix their compensation. The office of secretary and treasurer may be held by the same person. Officers and employees shall hold office during the pleasure of the board. The board shall provide an office suitable for its use as a meeting place and for conducting the affairs of the district. It shall adopt such rules or regulations for transacting the business of the district as it may deem necessary, including the time and place of holding regular meetings of the board. Special meetings may be called by the secretary on order of the chairman of the board or on

written request of two members of the board. Notice of the special meeting shall be mailed to each member of the board at least five days before any such meeting, provided that a special meeting may be held whenever all members of the board are present or consent thereto in writing.

§ 77. Amendment.) Subsection 26 of section 24-01-01.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26. "Municipal corporation or municipality" shall mean all cities and towns organized under the laws of this state, but shall not include any other political subdivisions.

§ 78. Amendment.) Section 24-01-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

24-01-14. Determination of Speed.) The commissioner, with respect to highways under his jurisdiction may conduct an investigation and determine safe speed limits on any state highway as provided under section 39-09-02 to include any street within the corporate limits of any town or city when such street has been designated as part of any state highway and on any bridge, causeway, or viaduct as provided for under section 39-09-04.

§ 79. Amendment.) Section 24-06-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

24-06-10. Roads Contiguous to Municipality—Grades—How Established.) In all places where highways are improved and graded under the contract system in a township where land contiguous to, adjoining, and outside of the limits of any city has been surveyed into a block or blocks and divided into city lots, the person to whom such contract is awarded shall comply strictly with the ordinances of such city as to roads, streets, grades, space for sidewalks, berms, and gutters, where, in the opinion of the board of township supervisors having control of the same, the cost of such grading shall be one hundred dollars or upwards. An estimate, profile, and cross section of such desired improvement shall be made by the county surveyor of said county, and the contract for such improvement shall be let to the lowest responsible bidder not a member of the said board and the work done under such contract shall not be accepted or paid for until said surveyor has reported that the said contract has been complied with substantially. All roads and streets in city additions of outlots shall be graded according to the requirements of such city ordinance or custom as to space for sidewalks, berms, and gutters.

§ 80. **Amendment.**) Section 24-07-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

24-07-04. Jurisdiction of Proceedings to Open or Vacate Highway.) Except as otherwise provided in this title, all proceedings for the opening, vacating, or changing of a highway outside of the limits of an incorporated city, including the acquisition of right-of-way when necessary, shall be under the charge and in the name of:

1. The board of county commissioners, if the road is in territory not organized into a civil township;
2. The board of township supervisors of an organized township;
3. The board of county commissioners of each county in case the road is between or in two or more counties;
4. The board of township supervisors of each organized civil township in which any part of the road is situated if the road is situated between two civil townships or in more than one civil township;
5. The board of township supervisors of each organized township and of the board of county commissioners in case the road is situated partly in an organized township and partly in an unorganized township; and
6. The board of county commissioners in any case arising under subsection 4 where the boards of township supervisors of the respective civil townships cannot agree or will not take action on petition so to do.

§ 81. **Amendment.**) Section 24-08-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

24-08-01. Construction of Bridges by Board of County Commissioners—Petition—Bids—Rejection.) Whenever a majority of the freeholders of a civil township, or a majority of the freeholders living within a radius of three miles of the proposed location, shall petition the board of county commissioners for a bridge at a specified location within such township, or within any incorporated city, if the cost of such bridge shall exceed the sum of one hundred dollars, the board of county commissioners shall view and investigate the necessity of such proposed bridge. If the board approves the petition, it shall proceed to advertise in the official paper of the county, for a period of thirty days, the plans and specifications of the proposed bridge, asking for sealed bids for the building of such bridge, to be submitted to it at the next regular or special

meeting, at which the board shall proceed to examine all proposals or bids for the building of such bridge. If such board sees fit, it shall award the contract to the lowest responsible bidder, requiring such bidder to give a bond in a sum not less than the amount stipulated in the bid or contract, conditioned for the faithful compliance with the terms of such bid or contract, such bond to be approved by the board and filed in the office of the county auditor. The board shall have the authority to refuse all bids received, and to proceed to construct such bridge under its own supervision, and in the manner deemed by it most expedient, and to enter into contracts for the labor or material to be used in the construction of the same.

§ 82. Amendment.) Section 26-23-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

***26-23-05. Report of Election or Appointment of Public Employee—Payment of Premiums.)** Before any public employee shall assume his duties, the state auditor, county auditor, city auditor, township clerk, or school district clerk, as the case may be, shall report to the commissioner in such manner and form as the commissioner shall prescribe, the election or appointment of such public employee and the amount of the bond required of him, and shall remit with such report by check, draft, or express or postal money order the premium required under the provisions of this chapter.

§ 83. Amendment.) Section 26-23-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-23-10. Default of Public Employees — Duty of Public Officer—Limitation on Filing of Claims Against Fund.) Immediately upon, and in no event later than sixty days after, the discovery of any default or wrongful act on the part of any public employee for which the fund is or may become liable, the state auditor, county auditor, city auditor, township clerk, or school district clerk, or the treasurer of the state or subdivision thereof, if the defaulting officer is the auditor or clerk of the state or subdivision, and any other officer having supervision of a defaulting public employee, shall file a claim with the commissioner against the fund. Any person injured by such default or wrongful act, if he intends to hold the fund liable therefor, must present his claim to the commissioner within sixty days after the discovery of such default or wrongful act. If a claim is not filed within the time limited by this section, such claim is waived. A claim filed under the provisions of this section shall contain an abstract of the facts upon which it is

***Note:** Section 4 of chapter 233, 1967 S.L., also amends section 26-23-05.

based and shall be verified by the claimant or by someone in its or his behalf, and, together with all papers relating thereto, shall remain on file with the commissioner.

§ 84. **Amendment.)** Section 26-23-22 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-23-22. Public Employee May Furnish Private Bond — Premiums Payable from Public Moneys Only to Fund.) Any person elected or appointed to office, in lieu of the bond provided for in this chapter, may furnish a bond issued by a duly authorized surety company, but no officer or board of the state or of any county, city, school district, or township shall pay for any such bond or bonds out of any public funds, except for such bonds as are procured to cover an excess over the amount carried in the fund.

§ 85. **Amendment.)** Subsection 3 of section 26-24-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. Political subdivision, shall include a county, city, township, school district or park district of this state;

§ 86. **Amendment.)** Section 26-24-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-24-06. Townships and School Districts Have Option as to Insurance on Certain Property.) The provisions of this chapter shall not apply to the property of any township or school district located outside of the incorporated limits of a city unless the clerk of the township or school district, at the direction of the board of township supervisors or the school board, as the case may be, shall file with the commissioner a written application for such insurance and a request that such township or school district come under the provisions of this chapter. To be effective, such applications must be approved in writing by the commissioner.

§ 87. **Amendment.)** Section 26-24-08 of the 1965 Supplement to 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 state board of higher education, and each officer, department, or agent of the state and of any industry thereof having in charge any public buildings of any kind

*Note: Section 3 of chapter 234 and section 1 of chapter 235, 1967 S.L., also amend section 26-24-08.

whatsoever belonging to the state, and each county auditor, city auditor, township 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.

§ 88. **Amendment.)** Section 27-09-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-09-06. County Lists of Persons Qualified as Jurors—Apportionment of Names on List Among County Subdivisions.) In each county of this state in which terms of a district court are held, jurors shall be drawn from a list of the names of two hundred persons of such county qualified to act as jurors. If, in any county, there are not two hundred persons qualified to act as jurors, such list of names shall contain the highest number possible. In each county in which only a portion of the civil townships are organized, the county commissioners thereof shall apportion to each of the organized townships, to each incorporated city and to the unorganized portion of such county, as near as may be, its pro rata share of such names. In each county in which all the townships are organized into civil townships, the board of county commissioners thereof, as near as may be, shall apportion pro rata the number of names to be selected among the civil townships and among the incorporated cities in such county. The names on the assessors' lists of the several townships and cities for the preceding year shall be the basis for making such apportionment.

§ 89. **Amendment.)** Section 27-09-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-09-07. Selection of Names of Persons Qualified as Jurors Apportioned to Unorganized Part of County.) The number of names of persons qualified to act as jurors which are to be selected from the portion of a county not organized into civil townships and not embraced within the limits of any incorporated city shall be selected by the board of county commissioners from the last annual tax list and shall be furnished to the clerk of the district court of such county.

§ 90. **Amendment.)** Section 27-09-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-09-08. Notice to Organized County Subdivisions of Apportionment—Notice of Meeting for Selection of Names Apportioned.) Whenever the board of county commissioners of any county shall have made the apportionment in section 27-09-06, the county auditor shall certify such apportionment to the clerk of the district court. The clerk of the district court thereupon shall notify the clerk of each township and the auditor of each city of the number of names apportioned to his township or city, and such clerk or auditor immediately thereafter shall cause to be posted in three public places in his township or city a notice that the board of supervisors of the township or the city council or board of city commissioners of the city, as the case may be, will meet to draw the names of qualified jurors of the township or city to make up the list of jurors for the county. Such notice shall state the date and place of such meeting within the township or city and the day designated shall be not less than five days nor more than ten days from the day of the posting of such notice. At the time at which the clerk of the district court shall give notice of such apportionment he also shall furnish to each clerk or auditor the names of the jurors from the township or city remaining on the jury list. The clerk of the township or the auditor of the city, as the case may be, shall notify in writing the clerk of the district court of the names of any jurors remaining on the list who have become disqualified to serve as jurors, and such names shall be stricken from the jury list, and the governing body of the political division shall draw additional names in lieu thereof in the manner prescribed for the drawing of those required by the apportionment made by the board of county commissioners.

§ 91. Amendment.) Section 27-09-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-09-09. Governing Bodies of Organized County Subdivisions to Select Names Apportioned—Method of Selection.) At the time and place designated in the notice provided for in section 27-09-08, the board of supervisors of the township, or the city council or board of city commissioners of the city, as the case may be, shall meet and select from the names of the resident taxpayers of such township or city three times as many names as are apportioned to the township or city by the county commissioners and the township or city clerk or auditor, at such meeting, shall write each name so selected on a separate ticket and shall record the list of the names so written and selected in a book to be kept for that purpose. Such board then shall compare the names on such tickets with such recorded list of names to satisfy itself that such tickets are correct. The tickets thereafter shall be folded, placed in a box

or some other receptacle, and shaken up, and one of the members of the board shall select by lot from the tickets in such box or receptacle the proper number of names apportioned to his township or city. The clerk or auditor then shall record in a book to be kept for that purpose such names in the order in which they were drawn. No governing body of any subdivision shall select therefrom any person to serve as a juror who has served on the regular panel as a juror from such political subdivision during the preceding five years.

§ 92. Amendment.) Section 27-09-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-09-10. Forwarding of Names and Addresses to Clerk of Court—Effect of Noncompliance—Clerk Keeps List.) The clerk or auditor of a township or city, immediately after the names have been drawn in the manner provided in section 27-09-09, shall forward by mail to the clerk of the district court of the county a list of the names so drawn, together with the post office address of each person named in such list. The clerk of the district court shall make out a record in a book to be kept for that purpose a list of the names so forwarded to him together with such post office addresses. A failure of the officers of any township or city to comply with the provisions of this section and section 27-09-09 shall not invalidate such list.

§ 93. Amendment.) Section 27-09-24 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-09-24. Punishment of Governing Bodies of County Subdivisions for Failure to Furnish Names of Jurors.) If the board of county commissioners, board of township supervisors, the city council or board of city commissioners of any city shall willfully neglect or fail to select and furnish to the clerk of court the names of persons qualified to act as jurors, as provided in this chapter, the person or persons so offending shall be guilty of contempt of court and may be fined by the court not less than five dollars nor more than fifty dollars.

§ 94. Amendment.) Section 29-02-23 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

29-02-23. Police to Attend Public Meetings—Direction.) The mayor or other officer having the direction of the police in a city must order a force sufficient to preserve the peace to attend any public meeting when he is satisfied that a breach of the peace is reasonably apprehended.

§ 95. **Amendment.)** Section 32-14-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

32-14-07. Forfeitures—How Recovered by City or Corporation.) All forfeitures imposed by any bylaw, ordinance, or regulation of any city or of any corporation organized under the laws of this state, when special provision is not otherwise made by law for their recovery nor punishment provided for the act or omission for which they are imposed, may be sued for and recovered pursuant to this chapter. It shall be sufficient to allege in the complaint that the defendant is indebted to the plaintiff in the amount of the forfeiture claimed, specifying the bylaw, ordinance, or regulation which imposes it. And when such bylaw, ordinance, or regulation imposes a penalty or forfeiture for several offenses or delinquencies, it shall specify the particular offense or delinquency for which the action brought, with a demand for a judgment for the amount of such forfeiture. All money collected on such judgment shall be paid to the treasurer of such city or corporation.

§ 96. **Amendment.)** Section 32-28-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

32-28-01. Court Authorized to Change Name of Persons and Cities.) The district court shall have the authority to change the names of persons and cities within this state.

§ 97. **Amendment.)** Section 32-28-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

32-28-03. Change of Name of City—Petition.) Whenever it may be desirable to change the name of any city in any county of the state, a petition for that purpose in like manner may be filed in the district court of the county in which such city is situated, setting forth the reason why such change of name is desirable and the name asked to be substituted. The court, on being satisfied by proof:

1. That the prayer of the petitioners is just, proper, and reasonable;
2. That notice as in case of the change of names of persons provided for in section 32-28-02 has been given;
3. That two-thirds of the legal voters of such city desire such change of name; and
4. That there is no other city in the state of the name asked for, may order such change of name and direct the clerk to enter such order upon the journal of the court.

§ 98. Amendment.) Section 38-09-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

38-09-02. Township, City, School District, or Park District May Lease Land for Oil and Gas Development.) The governing body of any township, city, school district, or park district in this state may lease the grounds or lands of such political subdivision, or any part thereof, for oil and gas development for a primary term of not more than ten years, and may renew or extend any such lease from time to time for as long thereafter as oil or gas is or can be produced on the land described therein.

§ 99. Amendment.) Section 40-01-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-01-01. Definitions.) In this title, unless the context or subject matter otherwise requires:

1. "Municipal corporation" or "municipality" shall include all cities and towns organized under the laws of this state, but shall not include any other political subdivision;
2. "Governing body" shall mean the city council or the board of city commissioners, as the case may be, of a municipality concerned or affected;
3. "Executive officer" shall mean the mayor in council cities or the president of the board of city commissioners in commission cities;
4. "City" shall include cities incorporated under the city council form and city commission system of government, unless the contrary shall appear;
5. "Warrant" shall mean an order drawn by the proper official of the city on its treasurer, the warrant or order to be so drawn that when signed by the treasurer in an appropriate place it becomes a check on the depository of such city, and no warrant upon the treasurer shall be delivered or mailed to the payee or his agent or representative until such warrant has been signed by the treasurer and entered on the treasurer's books as a check drawn on a bank depository.

§ 100. Amendment.) Section 40-01-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-01-02. Municipalities Are Bodies Corporate.) Municipalities shall be bodies politic and corporate under the name and

style of "city of....." and under such name, may sue and be sued, contract and be contracted with, acquire and hold real and personal property for corporate purposes, and have a common seal which may be changed at pleasure.

§ 101. **Amendment.)** Section 40-01-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-01-10. Certificate of Publication Filed in Auditor's Office—Conclusive Evidence—When Bill for Publication Audited.) After any ordinance, notice, resolution, or other proceeding has been published, a copy of the publication, together with the affidavit of publication stating the length of time it has been published, shall be filed with the city auditor. Such affidavit shall be conclusive evidence of the publication. The bill for the publication shall not be audited until such affidavit is filed.

§ 102. **Amendment.)** Section 40-01-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-01-11. Publication by a City or Park District in Which No Official Newspaper is Published.) Whenever any ordinance, notice, or other instrument is required by the provisions of this code to be published in a city or park district in which no official newspaper is published, such publication may be made or such notice given by publication of such ordinance, notice, or other instrument in the official county newspaper. In a county in which no newspaper is published, any notice required by law to be published may be published in a newspaper printed in an adjoining county and having a general circulation in said county.

§ 103. **Amendment.)** Section 40-01-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-01-16. Duty of Auditor Relating to Assessments in Municipality Located in More Than One County.) The auditor of a municipality embracing territory in more than one county shall transmit the appropriate assessment books, with a certified copy of the minutes showing the proceedings of the board of equalization, to the county auditor of each county in which the municipality is situated. The auditor shall apportion correctly the amount of any tax levy to be certified to each county in accordance with the valuations as determined finally by the equalization board.

§ 104. **Amendment.)** Section 40-01-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-01-18. Other Provisions Applicable to Municipalities Situated in More Than One County.) The holding of elections, organization of the board of elections, the election and term of office of the original officers, and the powers and duties of officers of a city embracing territory in more than one county shall be governed by the provisions of this title relating to cities under the council form of government, or to cities under the commission system of government, as the case may be.

§ 105. **Amendment.)** Section 40-01-20 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-01-20. Daylight Saving Time Prohibited.) No city or other political subdivision within the state shall adopt daylight saving time or any other seasonal standard of time which varies from the time in effect in such city or political subdivision during the greater portion of the year. All ordinances, resolutions, or other enactments, whether enacted prior to or subsequent to the effective date of this section, are hereby nullified.

§ 106. **Amendment.)** Section 40-02-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-02-01. Requisites of Incorporation as City.) Any contiguous territory in this state, not exceeding four square miles in area, not already included within the corporate limits of any incorporated municipality, may become incorporated as a city whether such territory is located in one or more counties, under the following conditions:

1. If such territory shall have residing therein a population of not less than fifty nor more than five hundred inhabitants, it may become incorporated as a city under the council or modern council form of government;
2. If such territory shall have residing therein a population of not less than five hundred inhabitants, it may become incorporated as a city under the council or modern council form of government, or as a city under the commission system of government.

§ 107. **Amendment.)** Subsection 4 of section 40-02-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- 4. A prayer that the question of incorporating the territory described in the petition as a city under the council form of government or a city under the commission system of government, as the case may be, be submitted to the qualified voters residing within such territory.

§ 108. Amendment.) Section 40-02-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-02-09. Form of Ballot.) The ballots to be used at an election to pass upon the question of the organization of a municipality under the provisions of this chapter shall be in substantially the following form:

Shall a.....(city under the council form of government, or city under the commission system of government, as the case may be) be organized out of the following described territory.....
(describe territory involved).

YES

NO

§ 109. Amendment.) Section 40-02-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-02-10. Election Returns—To Whom Made—Duty of Board of County Commissioners.) The election officials acting in each place in which votes are cast in an election held under this chapter shall return to the board of county commissioners which ordered the election a verified statement of the results of the election showing the number of votes cast for and against incorporation to their voting place. Such returns shall be verified by the affidavit of the election officials. The returns shall be canvassed by the board of county commissioners, and the results of the canvass and of the election shall be entered upon the minutes of the proceedings of such board. If a majority of the votes cast at the election favored incorporation, the board shall make an order declaring that the territory described in the petition has been incorporated as a city under the council form of government or as a city under the commission system of government, as the case may be, by the name described in the petition, stating such name, and shall cause such order to be entered in the minutes of its proceedings. If the territory is located in more than one county, a certified copy of such order shall be submitted immediately to each of the other counties within which a portion of the territory described in the order is situated. The auditor of each county to which a certified copy of the order is sub-

mitted shall make a record thereof in the minutes of the board of county commissioners of such county.

§ 110. Amendment.) Section 40-02-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

***40-02-11. Division Into Districts or Wards.)** After the return of the election provided for in this chapter, if a majority of the votes cast at such election favored incorporation as a municipality, the board of county commissioners which ordered the election shall proceed to divide the municipality into districts or wards as follows:

1. If the territory has been incorporated as a city under the council form of government, it shall not be divided into wards unless it has more than six hundred inhabitants, and if it has more than six hundred inhabitants, one ward shall be formed for each two aldermen to which the city is entitled. In cities of more than fifteen thousand inhabitants, however, the number of wards shall be limited to seven originally, and such number may be increased thereafter as provided in this title;
2. If the territory has been incorporated as a city under the commission system of government, it shall be divided into not less than three nor more than seven wards.

Each district or ward shall be formed from contiguous territory, and all districts or wards shall be numbered consecutively and shall have, as nearly as practicable, the same number of inhabitants.

§ 111. Amendment.) Section 40-02-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-02-12. Order of Incorporation—Recording—Filing—As Evidence.) An order of incorporation of a city under the council form of government, under the provisions of this chapter, as made by the board of county commissioners to which the petition for incorporation is addressed, shall be conclusive evidence of the incorporation of the territory described in the order in all suits by or against the municipality described therein. The board shall cause a certified copy of such order to be filed for record in the office of the register of deeds of each county affected and a certified copy thereof to be filed in the office of the secretary of state.

***Note:** Section 92 of chapter 158, 1967 S.L., also amends section 40-02-11.

§ 112. Amendment.) Section 40-04-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-04-01. Incorporation as Commission City.) Any city in this state having a population of not less than five hundred inhabitants may become incorporated as a city under the commission system of government in the following manner: whenever one-tenth of the electors of such municipality, based upon the votes cast for the office of governor at the last preceding general election, shall petition the governing body of such municipality to submit to a vote of the electors the question whether such city shall become incorporated as a city under the commission system of government, the governing body shall submit such question to the electors, appoint a time when and place or places where the election shall be held, and designate the judges and clerks at such election. Such question shall not be submitted more than once in every four years.

§ 113. Amendment.) Section 40-04-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-04-03. Form of Ballot.) The ballots to be used at such election shall be in substantially the following form:

Shall the city of.....(naming the city) become organized as a city under the commission system of government?

YES

NO

§ 114. Amendment.) Section 40-04-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-04-04. Returns and Canvass of Election—Certificate to Secretary of State—Officers to Continue Until Election.) The officials of an election held under the provisions of this chapter shall make a return of such election to the governing body of the city and such governing body shall canvass such returns and cause the result of the canvass to be entered upon the records of the city. If a majority of the votes cast at such election shall be for city organization under the commission system, the auditor under the corporate seal of the city, shall certify the adoption of such form of government and a copy of the proceedings concerning the same to the secretary of state together with the result of any special census taken in such city. The city officers then in office shall exercise the powers conferred upon like officers of a city operating under the com-

mission system of government until their successors are elected and qualified.

§ 115. Amendment.) Section 40-04-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-04-07. Special Election Called to Elect City Commissioners.) Within twenty days after the issuance of a patent incorporating any city under the provisions of this chapter, the executive officer of the city voting such incorporation shall call a special election for the purpose of electing the first board of city commissioners. The election shall be held as provided in section 40-21-02.

§ 116. Amendment.) Subsections 1 and 71 of section 40-05-01 of the 1965 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

- 1. Ordinances.** To enact or adopt all such ordinances, resolutions and regulations, not repugnant to the Constitution and laws of this state, as may be proper and necessary to carry into effect the powers granted to such municipality or as the general welfare of the municipality may require, and to repeal, alter, or amend the same. The governing body of a municipality may adopt by ordinance the conditions, provisions, and terms of a building code, a fire prevention code, a plumbing code, an electrical code, a sanitary code, vehicle traffic code, or any other standard code which contains rules and regulations printed as a code in book or pamphlet form by reference to such code or portions thereof alone without setting forth in said ordinance the conditions, provisions, limitations, and terms of such code. When any such code or portion thereof shall have been incorporated by reference into any ordinance as aforesaid, it shall have the same force and effect as though it had been spread at large in such ordinance without further or additional posting or publication thereof. A copy of such standard code or portion thereof shall be filed for use and examination by the public in the office of the city auditor of such municipality prior to the adoption thereof. The adoption of any such standard code by reference shall be construed to incorporate such amendments thereto as may be made therein from time to time, and such copy of such standard code so filed shall at all times be kept current in the office of the city auditor of such municipality. The adoption of any such code or codes heretofore by any municipality is hereby validated. Fines, penalties, and forfeitures for the violation thereof

may be provided within the limits specified in this chapter notwithstanding that such offense may be punishable also as a public offense under the laws of this state;

71. **Noxious Weeds.** To determine what shall be noxious or unhealthful vegetation within the city; 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 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.

§ 117. **Amendment.)** Section 40-05-02.2 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-05-02.2. City May Levy Excise Tax on Nonprofit Liquor Dealers by Ordinance.) 1. Any city, 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 to sell such liquor; provided, however, that no city 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 licensed to sell such liquor.

2. The city 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. The right of appeal from a decision of the governing body of such city to the district court of the district wherein such city is located shall not be restricted.

§ 118.) Section 40-05-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-05-05. Cities May Contract for Electrical Energy or Gas.) The governing body of any city may enter into a contract with any person, partnership, association, corporation or the United States or any department or agency thereof to provide for:

1. The furnishing of electrical energy or gas to the inhabitants of the city and to the city for all purposes; or
2. The sale to and the purchase by the city for a term of not to exceed ten years, of electrical energy or gas required for city purposes.

The making and execution of any such contract must be authorized by a resolution of the governing body adopted by a majority of the members thereof at a regularly assembled meeting of such body. Nothing contained in this section shall deprive the public service commission of any of its regulatory powers with reference to contract rates.

§ 119. Amendment.) Section 40-05-09.1 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

***40-05-09.1. Tax Levy for Fire Department Substations.)** 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 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 substation 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 and certified in writing to the governing body thereof as to the need and requirement of a substation to maintain adequate fire protection standards for protection of life and property in said city.

§ 120. Amendment.) Section 40-11-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-11-01. Enacting Clause for Ordinances.) The enacting clause of every ordinance adopted by a municipal corporation shall be: "Be it ordained by the (governing body) of the city of" Such caption, however, may be omitted when the ordinances are published in book form or are revised and digested.

§ 121. Amendment.) Section 40-11-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

***Note:** Section 40-05-09.1 was also amended by section 1 of chapter 325, 1967 S.L.

40-11-04. Ordinance Required for the Transfer of Property.)

Every municipality shall enact an ordinance providing a uniform method and procedure for the conveyance, sale, lease or disposal of personal and real property of the municipality.

§ 122. Amendment.) Section 40-11-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-11-08. Ordinance Book Required—Ordinance Book and Certified Copies of Ordinances as Evidence.) Each municipality shall keep an ordinance book. The city auditor shall record in such book all ordinances finally passed and approved, and when any ordinance has been published, he shall record therein the affidavit of publication or of posting. The ordinance book, or copies of ordinances as recorded therein, certified by the city auditor, shall be received as evidence without further proof. If the ordinances of a municipality have been printed in book or pamphlet form by authority of the governing body of the municipality, such book or pamphlet shall be received as evidence of the existence of the ordinances therein contained.

§ 123. Amendment.) Section 40-11-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-11-12. Commitment of Guilty Person.) Any person upon whom any fine or penalty shall be imposed for a violation of a municipal ordinance may be committed, upon the order of the court before whom the conviction is had, to the county jail, city prison, workhouse, house of correction, or other place provided by the municipality for the incarceration of offenders until the fine, penalty, and costs shall be fully paid in money or discharged by labor as is provided in section 40-18-12.

§ 124. Amendment.) Section 40-13-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-13-02. Bonds of Municipal Officials — Requirements — Approvals—Additional Bonds.) The treasurer, auditor, municipal judge, county justice, and assessor of each municipality, the city manager of any city, and such other officers as the governing body may direct, before entering upon the discharge of the duties of their respective offices, shall execute and deliver to the municipality their separate bonds payable to the municipality, conditioned for the honest and faithful performance of their official duties. Such bond shall be in an amount fixed by the governing body of the municipality. The bond of the treasurer shall be set by resolution of the governing body of the municipality at a regular meeting in April of each year;

in an amount at least equal to twenty-five percent of the average amount of money that has been subject to the treasurer's control during the preceding fiscal year, as determined by the total of the daily balances of the treasurer for the calendar year divided by the figure three hundred or the sum of two hundred fifty thousand dollars whichever is least. All official bonds shall be approved by the executive officer of the municipality and filed in the office of the city auditor. Such bonds shall conform to the provisions of law applicable to the bonds of state officers and employees except that no personal surety shall be accepted on any bond. No municipality shall pay the premium on any bond except a bond written in the state bonding fund or a bond procured to replace a bond canceled by the state bonding fund. The governing body at any time may require new and additional bonds of any officer.

§ 125. Amendment.) Section 40-13-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-13-03. Oaths of Municipal Officers.) Every person elected or appointed to any municipal office, before he enters upon the discharge of the duties thereof, shall take and subscribe the oath of office prescribed for civil officers, and, except in the case of the treasurer and auditor, shall file the same with the city auditor within ten days after notice of his election or appointment has been given. The oath of the municipal treasurer and of the auditor shall be filed in the office of the auditor of the county in which the municipality is located.

§ 126. Amendment.) Section 40-18-01 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-18-01. Jurisdiction of Municipal Judge.) The municipal judge within a city having a population of three thousand or more shall be an attorney licensed to practice law in this state, unless no person so licensed is available in the city and shall have exclusive jurisdiction of, and shall hear, try and determine, all offenses against the ordinances of the city. The offices of county justice and municipal judge may not be held by the same person.

§ 127. Amendment.) Section 40-18-05 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-18-05. Municipal Judge is Conservator of the Peace—Powers on Sunday Restricted.) The municipal judge within his city shall be a conservator of the peace, and he shall have power to bring persons before him forthwith for trial. His court

shall be open every day except Sunday to hear and determine cases cognizable before him. He shall perform no official act on Sunday except that he may receive complaints, issue process, take bail, and receive verdicts.

§ 128. **Amendment.)** Section 40-18-07 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-18-07. Warrants of Arrest Issued by Municipal Judge—Service of Warrant.) Whenever any person competent to testify against the accused makes a complaint to a municipal judge upon oath or affirmation that an offense against a city ordinance or bylaw has been committed, the municipal judge shall issue a warrant for the arrest of the offender. The warrant shall be served by the chief of police, marshal, sheriff, any constable of the county, or by some person appointed specially by the municipal judge for that purpose.

§ 129. **Amendment.)** Section 40-18-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-18-12. Commitment for Violation of City Ordinance—Limitation—Labor in Lieu of Fine.) If the defendant is found guilty of the violation of a municipal ordinance and is committed as is provided in section 40-11-12, the term of his imprisonment shall not exceed three months for any one offense. The governing body may provide by ordinance that each person so committed shall be required to work for the municipality at such labor as his strength will permit, not exceeding ten hours in each working day, and for such work the person so imprisoned shall be allowed for each day, exclusive of his board, one dollar and twenty-five cents on account of the fines and costs assessed against him.

§ 130. **Amendment.)** Section 40-18-15 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-18-15. Jury Trials in Cases Arising Under the Ordinances of a City.) An action for the violation of a city ordinance shall be tried and determined by the municipal judge, without the intervention of a jury except as is provided in this section. If the defendant is charged with the violation of an ordinance of the city under the provisions of which imprisonment for more than ten days or a fine of more than twenty dollars is made a part of the penalty, such defendant, before the commencement of the trial, may demand a trial by jury.

§ 131. Amendment.) Section 40-18-16 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-18-16. Procedure When Jury Demanded in Court of Municipal Judge.) When a jury has been demanded in accordance with the provisions of section 40-18-15, the municipal judge shall prepare a list of the names of eighteen residents of the city having the qualification of jurors in the district court. The defendant and the attorney for the city, or the chief of police, if the city is not represented by an attorney, shall strike names from such list alternately until each has stricken three names therefrom. If the defendant shall refuse to strike names from such list, the municipal judge shall strike three names therefrom. The municipal judge then shall issue his venire to the chief of police commanding him to summon the twelve persons whose names remain upon the list as jurors.

§ 132. Amendment.) Section 40-18-17 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-18-17. Challenges for Cause to Jurors in Court of Municipal Judge.) In all trials by the jury in a municipal judge's court, challenges shall be allowed in the same manner and for the same causes as in the district court in cases of misdemeanor, but no peremptory challenges shall be permitted. If either party objects to the competency of a juror, the question on the challenge shall be tried in a summary manner by the municipal judge, who may examine the juror or other witnesses under oath. If the number of jurors is reduced below twelve by challenges for cause or because of the failure to appear of any juror named on the venire, the chief of police of the city shall summon a sufficient number of talesmen having the qualifications of jurors to complete the panel which, in all cases, shall consist of twelve jurors.

§ 133. Amendment.) Section 40-18-19 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-18-19. Appeals from Determinations of Municipal Judge.) An appeal may be taken to the district court from any judgment in a municipal judge's court in the same form and manner as appeals are taken and perfected from a judgment of conviction of a defendant in justice court, and in accordance with sections 33-12-34, 33-12-35, and 33-12-39, and shall be tried in the district court in accordance with sections 33-12-40 and 33-12-41, and bail shall be taken in accordance with sections 33-12-36 and 33-12-37, and witnesses may be placed under bond as provided for in section 33-12-38. On all appeals from a deter-

mination in a municipal judge's court the district court shall take judicial notice of all of the ordinances of the city.

§ 134. **Amendment.)** Section 40-19-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-19-01. Duties of City Assessor.) The city assessor within his city shall perform all the duties necessary in assessing the property within the city for the purpose of levying the municipal, county, school, and state taxes. Such assessors shall be governed by and shall make assessments and returns as is provided in title 57, Taxation, and in this chapter.

§ 135. **Amendment.)** Section 40-19-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-19-03. Return of Assessment Roll by City Assessor.) When the assessment is completed, and on or before the first day of June in each year, the city assessor shall return the assessment roll to the city auditor. The assessment roll shall be open to the inspection of the public until the meeting of the board of equalization of the municipality. The city auditor shall deliver the assessment roll to the board of equalization of the municipality at its regular meeting.

§ 136. **Amendment.)** Section 40-21-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-21-06. Reference to Party Ballot or Affiliation in Petition of Candidate for Municipal Office Prohibited—Principles Stated.) No reference shall be made to a party ballot nor to the party affiliation of a candidate in a petition to be filed by or in behalf of a candidate for nomination to a public office in any incorporated city in this state. Such candidate may state or have stated after his name in any such petition, in not more than twenty words, any particular principle or principles of local administrative policy or policies he stands for and seeks election to promote.

§ 137. **Amendment.)** Section 40-21-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

***40-21-07. Petition for Nomination of Elective Official in Municipalities—Signature Required—Contents.)** A candidate for any public office in an incorporated city may be nominated by filing with the city auditor, at least twenty days prior to

*Note: Section 99 of chapter 158, 1967 S.L., also amends section 40-21-07.

the holding of the election, a petition signed by not less than ten percent of the qualified electors residing within the ward or precinct in and for which such officer is to be elected, if the election is by wards, or a like percent of the voters of the city if the officer is elected at large, except that in cities operating under the commission system of government the required petition may be signed by the electors at large residing within such city. In no case shall more than three hundred signatures be required, and such signatures may be on separate sheets of paper. No elector shall sign more than one petition for the same office. Each signer of such petition shall add to his name his post office address, giving the street and number of his residence.

§ 138. Amendment.) Section 40-21-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-21-08. Ballots in Municipalities—Makeup.) The auditor of the city shall place only the names of the persons nominated upon the ballot. Opposite or immediately below the name of each candidate on the ballot shall be placed the statement, in not more than twenty words, of the principle or principles which he seeks to promote. Such statement shall be set forth in the manner in which it appeared in the petition or petitions filed by or on behalf of such candidate, and in such manner as readily to inform the voter of the policy or policies upon which such candidate seeks election. The auditor shall arrange the offices upon the ballot in the order in which they are named in the statutes. The arrangement of the names of the candidates upon the ballot shall be determined by lot by such auditor in the presence of the candidates or their representatives at noon on the day following the last day for the filing of the nomination papers.

§ 139. Amendment.) Section 40-21-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-21-10. Registration of Voters.) The governing body of any city may require the registration of voters in any election held or conducted within the municipality at such time and place or places as the governing body may designate.

§ 140. Amendment.) Section 40-21-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

***40-21-12. Counting Ballots—Returns—Canvass of Returns by Governing Body of Municipality.)** The ballots cast in a municipal election shall be counted and the returns of the election prepared by the election board immediately after the closing of the polls. The ballots and the returns of the election shall be returned to the city auditor under seal within two days after the election. Thereafter, the governing body of the municipality shall canvass the returns and declare the result of the election and cause a statement thereof to be entered in its books of minutes.

§ 141. Amendment.) Section 40-21-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-21-14. City Auditor to Notify of Election or Appointments.) The city auditor, within five days after the result of an election is declared or the appointment of an officer is made within the municipality, shall notify each person elected or appointed to municipal office of his election or appointment.

§ 142. Amendment.) Section 40-22-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-22-14. Plans, Specifications, and Estimates Filed in Office of City Auditor.) The plans, specifications, and estimates shall be the property of the municipality and shall be filed in the office of the city auditor and shall remain on file in his office subject to inspection by anyone interested therein.

§ 143. Amendment.) Section 40-22-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-22-17. Protest Against Resolution of Necessity—Meeting to Hear Protest.) If, within thirty days after the first publication of the resolution declaring the necessity of an improvement project of the type specified in any one of the subsections of section 40-22-01, the owners of any property within the improvement district file written protests with the city auditor protesting against the adoption of said resolution, the governing body of the municipality, at its next meeting after the expiration of the time for filing such protests, shall hear and determine the sufficiency thereof.

§ 144. Amendment.) Subsection 1 of section 40-22-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

***Note:** Section 101 of chapter 158, 1967 S.L., also amends section 40-21-12.

1. Specify the work to be done according to the plans and specifications on file in the office of the city auditor;

§ 145. **Amendment.)** Section 40-22-24 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-22-24. Bids — Filing — Sealing — Endorsing — Opening — Considering.) Bids for the work to be let under the provisions of this chapter shall be forwarded to the city auditor and shall be sealed securely to prevent the opening thereof without detection. There shall be endorsed upon the outside of the envelope containing the bid a statement of what work such proposal is for. The bids shall be opened by the governing body at the expiration of the time limited in the advertisement for receiving the same, which shall be not less than fifteen days after the first publication of the advertisement, or at such other time as the governing body may appoint. Only bids which are accompanied by the check and bond provided for in sections 40-22-20 and 40-22-21 shall be considered by the governing body.

§ 146. **Amendment.)** Section 40-22-25 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-22-25. Opening of Bids—Bids To Be Entered on Minutes —Final Action on Bids To Be Deferred.) After the bids have been opened and made public, they shall be entered upon the minutes of the meeting of the governing body of the municipality at which they are considered, and they shall be preserved carefully by the city auditor. If the governing body has called for bids on more than one kind of pavement, action on the bids shall be deferred for a period of at least five days, and not less than five days after the opening of the bids, a meeting of the governing body shall be held for the purpose of considering and acting upon such bids. Notice of the time and place of such meeting shall be published by the city auditor in at least one issue of the official newspaper of the municipality not less than five days before the date fixed for such meeting.

§ 147. **Amendment.)** Section 40-22-26 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-22-26. Petition by Property Owners to Have Paving of Certain Material—Contents.) If the governing body has called for bids on more than one kind of pavement, after the opening of the bids in connection with an improvement consisting of paving or repaving and before the meeting of the governing body to consider the same, the owners of a majority of the

property liable to be specially assessed for such paving or repaving may file a written petition with the city auditor indicating that the petitioners have a preference for a certain type of paving or paving material for which bids have been invited. Upon receiving such petition it shall be obligatory upon the governing body to cause the paving or repaving to be constructed of a kind of paving material indicated in the petition. The petition may consist of a single petition or several separate petitions signed by the owners of a majority of the property liable to be specially assessed for such improvement, or by their authorized agents.

§ 148. Amendment.) Section 40-22-30 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-22-30. Contractor's Bond — Execution — Affidavit Required.) Within the time fixed by the governing body for executing the contract, the successful bidder shall file with the city auditor a contract bond in a sum equal to the full amount of the contract. Such bond shall be executed by the bidder or contractor as principal and by a surety company authorized to do business in this state, or by two or more freeholders who are residents of this state, as sureties. If the contract bond is executed by individuals as sureties, such sureties must attach to the bond an affidavit of justification showing that they are worth in the aggregate in property within this state a sum equal to twice the penalty of the bond over and above their exemptions.

§ 149. Amendment.) Subsection 1 of section 40-22-31 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. That he well and faithfully will perform the work bid for in accordance with the terms of and within the time provided for in the contract, and pursuant to the plans and specifications for such work on file in the office of the city auditor;

§ 150. Amendment.) Section 40-22-35 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-22-35. Execution and Filing of Contract.) All contracts entered into for any work provided for in this chapter shall be entered into in the name of the municipality and shall be executed on the part of the municipality by the executive officer and countersigned by the auditor, who shall affix the corporate seal of the municipality. After the contract is signed by the contractor, it shall be filed in the office of the city auditor.

§ 151. **Amendment.**) Section 40-22-36 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-22-36. Contracts—Conditions and Terms.) A contract let under the provisions of this chapter shall require the work to be done pursuant to the plans and specifications on file in the office of the city auditor, subject to the approval of the engineer acting for the municipality, and shall provide further:

1. That the governing body shall have the right to suspend the work at any time for improper construction and to relet the contract therefor or to order a reconstruction of the work as to any part thereof improperly done;
2. The time within which the work shall be completed;
3. The period of time for which the work shall be guaranteed as to workmanship and materials;
4. The fund from which the contract price is to be paid by the municipality;
5. That the consideration expressed in the contract is payable only in warrants drawn on the fund described in the contract;
6. That the municipality assumes and incurs no general liability under such contract; and
7. That failure of the engineer to reject work and materials which are not up to specifications and acceptance of the job by the engineer shall not release the contractor from liability for any failure on his part to perform work or furnish materials in accordance with the plans and specifications.

The engineer acting for the municipality shall supervise and inspect the work during its progress.

§ 152. **Amendment.**) Section 40-22-40 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-22-40. City Auditor to Keep Complete Record of Improvements—Record as Evidence.) The city auditor shall keep in his office a complete record of all the proceedings taken in the matter of making any improvements under this chapter. Such record shall include all reports and the confirmations thereof, all petitions, orders, appointments of commissioners, notices and proofs of publications, and resolutions of the governing body. Such record, a certified transcript thereof, or the original papers, proofs of publications, orders, or resolutions on file in such office shall be admitted in evidence in any court or

place in this state without further proof as evidence of the facts therein contained.

§ 153. **Amendment.)** Section 40-23-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-23-02. Commissioners — Appointments Subject to Confirmation — Qualifications — Chairman — Compensation.) All appointments made to the special assessment commission shall be subject to the confirmation of the governing body. Upon his appointment and confirmation, each commissioner shall file with the city auditor a written acceptance of the appointment and shall take and subscribe the oath required of other municipal officers, which shall be filed with the city auditor. The member of the commission having the shortest term to serve shall act as chairman. No member of the commission shall hold any other municipal office while serving as such member. Each member of the commission shall receive as compensation for his services while actually engaged in the duties of the commission the sum of five dollars a day.

§ 154. **Amendment.)** Section 40-23-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-23-05. Notice to Special Assessment Commission.) At any time after the contract and bond for any work for which a special assessment is required have been executed and approved by the governing body of the municipality and the total cost of such work shall have been estimated as nearly as practicable, the governing body may direct assessments to be levied for the payment of all or any part of such cost, and the city auditor shall notify the chairman of the special assessment commission and shall certify to him the items of the total cost thereof so far as the same have been ascertained. The chairman immediately shall call a meeting of the commission, which shall proceed as expeditiously as possible to make and return the special assessment as provided in this chapter. The total cost of the improvement which may be certified to the assessment commission shall include the estimated construction cost under the terms of the contract, a reasonable allowance as determined by the governing body for cost of extra work which may be authorized under the plans and specifications, engineering, fiscal agents' and attorneys' fees for any services in connection with the authorization and financing of the improvement, cost of publication of required notices and printing of improvement warrants, and all expenses incurred in the making of the improvement and levy of assessments therefor. In the event that any error is made in estimating the

cost, the governing body may direct a supplemental assessment to be made as provided in section 40-26-02.

§ 155. Amendment.) Section 40-23-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

***40-23-07. Regulations Governing Determination of Special Assessments by Commission—Political Subdivisions Not Exempt.)** Whenever the commission is required to make any special assessment under the provisions of this title, the members thereof personally shall inspect any and all lots and parcels of land which may be subject to such special assessment and shall determine from such inspection the particular lots and parcels of land which, in the opinion of the commission, will be especially benefited by the construction of the work for which the assessment is to be made. The commission shall determine the amount in which each of the lots and parcels of land will be especially benefited by the construction of the work for which such special assessment is to be made, and shall assess against each of such lots and parcels of land such sum, not exceeding the benefits, as shall be necessary to pay its just proportion of the total cost of such work, or of the part thereof which is to be paid by special assessment, including all expenses incurred in making such assessment and publishing necessary notices with reference thereto and the per diem of the commission. Benefited property belonging to counties, cities, school districts, park districts, and townships, shall not be exempt from such assessment, and such public corporations whose property is so assessed shall provide for the payment of such assessments, installments thereof and interest thereon, by the levy of taxes according to law. Nothing in this section shall be deemed to amend other provisions of law with reference to the levy of assessments on property sold for delinquent taxes.

§ 156. Amendment.) Section 40-23-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-23-12. Confirmation of Assessment List After Hearing—Filing List.) The special assessment commission, after the hearing, shall confirm the list and attach thereto its further certificate certifying that the list is correct as confirmed by it. The commission thereafter shall file the assessment list in the office of the city auditor.

§ 157. Amendment.) Section 40-23-13 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

***Note:** Section 2 of chapter 332, 1967 S.L., also amends section 40-23-07.

40-23-13. Publication of Notice of Confirmation of Assessment List and Meeting for Action Upon Assessments.) The city auditor shall publish at least once in the official newspaper of the municipality a notice stating that the assessment list has been confirmed by the special assessment commission and filed in his office and is open to public inspection. The notice also shall state the time when and the place where the governing body will act upon such assessment list. The assessment list shall be acted upon by the governing body at a regular or special meeting occurring more than fifteen days after the publication of such notice.

§ 158. **Amendment.)** Section 40-23-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-23-14. Aggrieved Person May File Notice of Appeal.) Prior to the meeting at which the governing body will act upon the assessment, any aggrieved person may appeal from the action of the special assessment commission by filing with the city auditor a written notice of the appeal, stating therein the grounds upon which the appeal is based.

§ 159. **Amendment.)** Section 40-23-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-23-16. Confirmation of Assessment List by Governing Body — Certifying List — Filing.) The governing body shall confirm the assessment list, and the city auditor shall attach to the list his certificate that the same is correct as confirmed by the governing body, and thereupon shall file the list in his office.

§ 160. **Amendment.)** Section 40-24-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-24-09. Payment in Full of Assessments — Payments to County or Municipal Treasurer—Receipts.) The owner of any property against which an assessment shall have been made under this title for the cost of any improvement may pay in full or in part the amount remaining unpaid and the unpaid interest accumulated thereon. The payment in full shall discharge the lien of the assessment upon his property. The payment may be made to the county treasurer upon all installments of the assessments which have been certified to the county auditor, and may be made to the municipal treasurer upon all portions of the assessment which have not been certified. Any person desiring to pay any portion of the assessment to the municipal treasurer shall obtain from the

city auditor a certificate of the amount due upon the assessment which has not been certified to the county auditor and shall present such certificate to the municipal treasurer. The municipal treasurer shall receive and collect such amount and issue duplicate receipts, one to be delivered to the person paying the assessment and the other to be deposited with the city auditor, who shall note upon his records the payment of the assessment.

§ 161. Amendment.) Section 40-24-11 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

***40-24-11. Certification of Assessments to County Auditor.)** Annually, at the time of certifying to the county auditor the amount of the municipal taxes to be levied for the current year, the city auditor shall certify to the county auditor all uncertified installments of assessments which are to be extended upon the tax lists of the municipality for the current year, in the manner provided in section 40-24-12.

*Note: Section 40-24-11 was also amended by section 1 of chapter 334, 1967 S.L.

§ 162. Amendment.) Section 40-24-12 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

***40-24-12. City Auditor to Insert Amount of Improvements in County Real Estate Assessment Book—Regulations Governing—Form.)** The city auditor shall notify the county auditor not later than July first in each year of any special assessments which were made in the municipality in addition to those reported in the previous year. The county auditor shall make and deliver to the city auditor, on or before August tenth each year, a copy of the real estate assessment book for the current year covering all additions in which any special assessments have existed and where any will appear for the current year as advised by the city auditor. The city auditor shall insert in the proper columns under the appropriate headings the amount of each of the installments of the assessments on the lots or subdivision of lots or tracts of land which are to be extended upon the tax lists of the municipality for the current year. In cases where a division of property has been made since the original assessment, the city auditor shall make or cause to be made, with the assistance and advice of the special assessment commission, the proper division of the special assessments on the lots or tracts of land as the same are divided and assessed for the general taxes as furnished by the county auditor. The

*Note: Section 40-24-12 was also amended by section 2 of chapter 334, 1967 S.L.

form to be used by the city auditor shall be to add each column on each page and total it, and to cross add all items entered against each lot or tract of land and carry this total to a final column at the right-hand side of the page so that when the totals of each column are cross added, the total of the cross addition will equal the total of the final column, and to recapitulate the footings of the entire list, page by page, to show the total amount for each purpose, and a total of these added together shall equal the total amount of special assessments certified to the county auditor for the current year.

§ 163. Amendment.) Section 40-24-15 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-24-15. Special Assessment Record Book Kept by County Auditor—Assessments Certified for More Than One Year.) The county auditor shall keep in his office a special assessment record. When any municipality causes the installments of special assessments for a period of more than one year to be certified, the county auditor shall cause the special assessments so certified to be recorded in such book for the respective years and in the amounts shown in the certificate of the city auditor. In such event the certificate of the city auditor shall include a list of all lots and tracts of land upon which such assessments are levied, designating the purpose of the assessment, the fund to which it belongs, and the installment of such assessment for each year against each lot or tract, including interest thereon.

§ 164. Amendment.) Section 40-24-16 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

***40-24-16. County Treasurer to Certify and Receipt for Amount of Special Assessments Collected—Contents of Certificate—Procedure for Abatement.)** Special assessments of any kind certified to the county auditor by the city auditor shall be paid to the county treasurer and included in the receipt required by section 57-20-08. In the event that the county treasurer receives less than the full amount of taxes and special assessments due at any time on any lot or tract of real estate, he shall allocate the amount of such payment between taxes and special assessments in proportion to the respective amounts of taxes and special assessments which are then due. Special assessments shall not be subject to abatement or refund by proceedings under chapter 57-23, but shall be reviewed and corrected only in the manner and upon the conditions provided

***Note:** Section 40-24-16 was also amended by section 1 of chapter 335, 1967 S.L.

in chapter 40-26. The county treasurer, at the time set by law for the payment to the municipal treasurer of all the taxes and special assessments collected by him during the preceding month, shall certify in duplicate the amounts of special assessments collected. The certificate shall state specifically the lot or known subdivision thereof as it appears on the tax books of the county treasurer, and the block, addition, amount collected, and the amount credited to each lot or known subdivision thereof, and the year for which the sum was collected. One copy of such certificate shall be furnished to the municipal treasurer and one copy to the city auditor.

§ 165. **Amendment.)** Section 40-24-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-24-20. Contents of Warrants.) Improvement warrants shall state upon their face for what purpose they were issued and the fund from which they are payable and shall be signed by the executive officer and countersigned by the city auditor under the seal of the municipality.

§ 166. **Amendment.)** Section 40-27-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-27-05. Special Fund for Payment of Bonds Issued for Purchase of Special Assessment Warrants—Tax Levy.) The governing body of a municipality which issues bonds for the purchase of special assessment warrants shall create a special fund for the payment of the principal and interest of such bonds as they become due and shall credit to such fund all special assessments collected for the payment of the special assessment warrants purchased. The governing body shall make a general tax levy annually on all the property in the municipality which, together with the special assessments collected, shall be sufficient to pay the principal and interest of the bonds when they become due. The levy imposed shall not be subject to any of the tax levy limitations imposed by section 57-15-08 or acts amendatory thereof. If any money remains in the special fund after the payment of the principal of all the bonds and the interest thereon, such balance may be transferred to the general fund.

§ 167. **Amendment.)** Section 40-28-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-28-02. Notice to Owner or Occupant to Construct Service Connection Pipes or Wires.) Upon the adoption of the resolution as provided in section 40-28-01, the city auditor shall

publish in the official municipal newspaper once each week for two successive weeks a notice to the owners or occupants of the property involved stating what work is to be done and the time within which it is to be completed. The notice may be general as to the owners but shall be specific as to the descriptions of the lots or parcels of land in front, along the side, or in the rear of which the improvement is to be made and which the improvement affects.

§ 168. Amendment.) Section 40-28-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-28-03. Municipality May Contract Work When Property Owner Fails to Make Service Connections as Required.) If the connection with the sewer, main, wire, or conduit is not made by the owner of the property within the time specified in the notice given by the city auditor, the governing body shall order such work done by such person as it may contract with therefor at the expense of the lot or parcel of land adjoining each improvement or service connection. Such work shall be done under the supervision of the engineer acting for the municipality. The expense of making such connection, including the expense of giving all notices relating thereto, of making the assessments therefor, and of any other nature, shall be assessed by the engineer against the lot or parcel of land properly chargeable therewith, and the assessment list shall be filed in the office of the city auditor. The city auditor shall cause such list, together with a notice of the time when and place where the governing body will meet to consider the approval thereof, to be published in one issue of the official newspaper of the municipality at least ten days prior to the meeting of the governing body at which the approval of the assessment will be considered.

§ 169. Amendment.) Section 40-28-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-28-04. Assessments Extended Over Period of from One Year to Five Years—Certification of Assessments.) Assessments for improvements made under the provisions of this chapter shall be paid in equal payments extending over a period of not less than one year nor more than five years, as the governing body of the municipality may determine. Such assessments as may be approved by the governing body shall be certified by the city auditor to the county treasurer for collection, and such assessments shall be collected in the same manner as special assessments are collected.

§ 170. **Amendment.)** Section 40-28-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-28-05. Sewer and Water Connections Assessment Fund—Warrants—Payment.) All money collected from assessments for laying and constructing sewer, water, and other service connections provided for in this chapter shall be kept in a fund called "sewer and water connections assessment fund", and warrants shall be drawn on such fund for the payment of the cost of such connections. All sewer and water connections assessment warrants shall be payable as specified and in such amount as in the judgment of the governing body will be provided by the taxes and assessments. Such warrants shall bear interest at a rate of not more than seven percent per annum and interest shall be payable annually. They may have coupons attached representing each year's interest. The warrants shall state on their face the purpose for which they were issued and from what fund they are payable, and shall be signed by the executive officer, countersigned by the city auditor under the seal of the municipality, and shall be in denominations of not to exceed one thousand dollars each. The warrants may be used to make payment on contracts for making the connections or may be sold for cash at not less than the par value thereof and the proceeds credited to the special fund and used to pay for such connections. Except as otherwise provided in this section, a municipality shall not be liable generally on any contracts for the making of such connections and shall not be required to pay funds raised by general taxation upon any such contract. Whenever all taxes and assessments collected are insufficient to pay the warrants issued, with interest, the governing body, upon the maturity of the last warrant, shall levy a tax upon all of the taxable property in the municipality for the payment of such deficiency; provided, however, that if at any time prior to the maturity of the last warrant a deficiency is likely to occur within one year or exists in the fund for the payment of principal and interest due on such warrants, 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. In case a balance remains unexpended in such fund after the payment of all warrants drawn thereon with interest, it shall be paid over or transferred to the general fund of the municipality.

§ 171. **Amendment.)** Section 40-28-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-28-06. Plans and Specifications Ordered for Service Connections.) After the adoption of the resolution declaring the

necessity of making the service connections as provided in section 40-28-01, the governing body, by resolution, shall direct the engineer acting for the municipality to prepare plans and specifications for the work and file them with the city auditor.

§ 172. **Amendment.)** Section 40-28-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-28-07. Bids for Service Connections—Advertising—Accompanied by Check—Awarding—Returning Checks.) The governing body shall direct the city auditor to advertise for bids for the laying and construction of service connections in accordance with the plans and specifications therefor. Each bid shall be accompanied by a certified check in the amount of five hundred dollars to guarantee the entering into the contract if the contract is awarded to him. Bids shall be received by the governing body. The governing body may reject any or all bids for work on service connections and may readvertise for other bids. If all the bids are not rejected, the contract shall be awarded to the responsible bidder whose bid is the lowest upon the basis of cash payment for the work if such bidder has complied with all the requirements of this chapter and furnished the required bond. Upon the awarding of the contract, the checks of all unsuccessful bidders shall be returned to them.

§ 173. **Amendment.)** Section 40-28-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-28-08. Bond Required of Successful Bidder for Making Service Connections — Amount — Conditions — Approval.) A bond in the sum of one thousand dollars shall be executed by the successful bidder and a surety company authorized to do business in this state, or by two acceptable freeholders of the state. The aggregate of the justification shall equal the amount of the bond. The bond shall be conditioned that if the bid is accepted and the contract is awarded to the bidder:

1. He well and faithfully will perform the work bid for;
2. He will fulfill the guaranty in accordance with the terms of and within the time provided for in such contract and pursuant to the plans and specifications for such work on file in the office of the city auditor;
3. He will pay for all labor and material used in the work; and
4. If the bidder shall fail to perform the contract or to fulfill the guaranties as provided in the contract, the sum named in the bond shall be taken and held to be

fixed and liquidated damages in favor of the municipality and the full amount thereof recovered from the bidder and his sureties in an action by the municipality against them on the bond.

After the bond has been approved by the governing body and filed in the office of the city auditor, it shall be and remain in full force and effect. Upon the filing of his contract and an acceptable bond, the check of the successful bidder shall be returned to him.

§ 174. **Amendment.)** Section 40-28-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-28-09. Contracts for Making Service Connections—Execution—Contents.) A contract let under the provisions of this chapter shall require the work to be done pursuant to the plans and specifications on file in the office of the city auditor, subject to the approval of the engineer acting for the municipality, and shall provide further:

1. That the governing body shall have the right to suspend the work at any time for improper construction and to relet the contract therefor or to order a reconstruction of the work as to any part thereof improperly done;
2. The time within which the work shall be completed;
3. The period of time for which the work shall be guaranteed as to workmanship and materials;
4. The fund from which the contract price is to be paid by the municipality;
5. That the consideration expressed in the contract is payable only in warrants drawn on the fund described in the contract;
6. That the municipality assumes and incurs no general liability under such contract; and
7. That failure of the engineer to reject work and materials which are not up to specifications and acceptance of the job by the engineer shall not release the contractor from liability for any failure on his part to perform work or furnish materials in accordance with the plans and specifications.

Such contract shall be entered into in the name of the municipality and executed on its behalf by its executive officer and countersigned by its auditor, and the seal of the municipality affixed thereto. When the contract has been signed by the contractor, it shall be filed in the office of the city auditor. The

engineer acting for the municipality shall supervise and inspect the work during its progress.

§ 175. **Amendment.)** Section 40-29-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-29-04. Power of Municipality Upon Failure of Property Owner to Comply with Notice.) If the sidewalk is not constructed, repaired or rebuilt in the manner and within the time prescribed in the notice, the governing body shall order the work done by such person as it may have contracted with therefor, under the supervision of the city engineer or of the street commissioner in a city having no city engineer, at the expense of the lot or parcel of land adjoining such sidewalk. The expense of constructing, repairing, or rebuilding the sidewalk shall include the expense of giving all notices required by the provisions of this chapter, of making assessments, and of any other nature incurred in doing such work.

§ 176. **Amendment.)** Section 40-29-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-29-05. Assessment of Expense.) The expense of constructing, repairing, or rebuilding sidewalks shall be assessed against the lots or parcels of land properly chargeable therewith, by the city engineer, or by the street commissioner in cities having no city engineer, who shall return the assessment and file it in the office of the city auditor. The city auditor shall cause such assessment, together with a notice of the time when and place where the governing body will meet to consider the approval thereof, to be published in one issue of the official newspaper of the city at least ten days prior to the meeting of the governing body at which the approval of the assessment will be considered.

§ 177. **Amendment.)** Section 40-29-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-29-07. Advertising for Bids for Sidewalks—Making of Bids.) The city auditor shall advertise in the official municipal newspaper once each week for two consecutive weeks for bids for the construction of the various kinds of sidewalks in the municipality. The bids shall be made in accordance with the specifications of the ordinance required by section 40-29-01 and shall be accompanied by a certified check in the amount of fifty dollars in accordance with section 40-22-20, and by a bond in the amount of five hundred dollars conditioned as provided in section 40-22-23.

§ 178. **Amendment.)** Section 40-29-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-29-09. City to Deliver Assessment Rolls to County Auditor—Extension—Collection.) The city auditor shall deliver to the county auditor a duplicate of all assessment rolls containing assessments made under the provisions of this chapter, and the county auditor shall extend the assessments in the proper column against the property assessed. Each assessment shall be collected and the payment thereof enforced as county and state taxes are collected and enforced. When collected, the assessment shall be paid over by the county treasurer to the municipal treasurer in the same manner as other taxes.

§ 179. **Amendment.)** Section 40-29-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-29-10. Review of Assessments—Assessment Book.) The city auditor shall keep in his office a book called "sidewalk assessment book" and shall enter therein the cost certified by the street commissioner or the governing body as an assessment against the lots or parcels of land adjoining any sidewalk constructed, repaired, or rebuilt under the provisions of this chapter, and the name of the owners of such lots or parcels of land, if the same are known to him. The governing body shall review all assessments and hear all complaints against the same and approve the same as finally adjusted.

§ 180. **Amendment.)** Section 40-29-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-29-12. Procedure for Making Limited Repairs to Sidewalks.) Whenever, in the judgment of the street commissioner, the necessary repair of sidewalks will not exceed in cost the sum of ten dollars for each twenty-five feet in front of land belonging to the same owner, the commissioner shall notify the city auditor thereof, and the auditor forthwith shall prepare a written notice, which may be general as to the owners of the lots or parcels of land but which shall describe specifically the lots or parcels of land adjacent to which the sidewalk is ordered repaired. Such notice shall require the owners of the lots or parcels of land described therein to repair the sidewalk to the satisfaction of the street commissioner, within a time to be fixed in such notice. The street commissioner shall serve such notice by delivering a copy thereof to the occupant or owner of each lot or parcel of occupied land described in the notice, or by leaving a copy thereof at the dwelling house upon such lot or parcel of land with some

person over the age of fourteen years residing therein. If any lot or parcel of land is not occupied, the commissioner shall serve the notice by posting a copy thereof in a conspicuous place thereon or immediately in front thereof. If such sidewalk is not repaired within the time fixed in such notice, the street commissioner, as soon as practicable, shall repair the same and certify the cost thereof, with his return of service of the notice, to the city auditor, and the cost of such repairs shall be paid out of the sidewalk special fund.

§ 181. Amendment.) Section 40-29-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-29-15. Warrants—Payable—Interest—Interest Coupons—Contents — Signed — Denominations — Uses.) All sidewalk assessment warrants shall be payable as specified and in such amounts as in the judgment of the governing body will be provided by the taxes and assessments. Such warrants shall bear interest at a rate of not more than seven percent per annum and interest shall be payable annually. They may have coupons attached representing each year's interest. The warrants shall state on their face the purpose for which they were issued and from what fund they are payable, and shall be signed by the executive officer, countersigned by the city auditor under the seal of the municipality, and shall be in denominations of not to exceed one thousand dollars each. The warrants may be used in making payment on contracts for making the improvements or may be sold for cash at not less than the par value thereof and the proceeds credited to the special fund and used to pay for such improvements.

§ 182. Amendment.) Section 40-29-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-29-17. Property Owners Petition for Drainage and Construction or Repair of Streets and Sidewalks—Regulations Governing.) If two-thirds of the resident owners in number or in value of the real estate bounding both sides of any street, not less than one block in area, shall petition the governing body of a municipality to have such street ditched for the purpose of draining the same or any property abutting thereon, or for the construction or repairing of a sidewalk thereon, or if two-thirds of the owners of real estate in number or in value on one side of such street shall desire a sidewalk on that side, the governing body shall levy and cause to be collected by tax upon the real estate on such street or part of street, such sum of money as is necessary for the improvement of the street or sidewalk or the building of the sidewalk in front of each of

the several lots or at the side of any corner lot or lots or real estate. No real estate shall be taxed as provided in this section for sidewalks built at a greater distance from the front of the real estate than one-half of the distance to the opposite side of the street.

§ 183. **Amendment.)** Section 40-29-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-29-18. Snow and Ice Removal from Sidewalks—Assessment—Street Commissioner to Make and File Assessment List.) If snow and ice are not removed from sidewalks within the time and in the manner provided by the ordinances of the municipality, the snow and ice may be removed by or under the direction of the street commissioner and the necessary expense thereof shall be chargeable against the abutting property. Annually, on or before May first, the street commissioner shall make and file in the office of the city auditor a list showing separately the amount chargeable and assessed against each lot and tract and stating the name of the owner of each such lot or tract so far as known to him.

§ 184. **Amendment.)** Section 40-29-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-29-19. Notice of Meeting of Governing Body to Confirm Snow and Ice Removal Report and Assessment.) The city auditor shall give notice of the hearing and confirmation of the report of snow and ice removal and of the assessment therefor at the regular June meeting of the governing body. Such notice shall notify all persons objecting to the report and assessment to appear and present their objections. The notice shall be published once each week for two consecutive weeks in the official municipal newspaper and the last publication shall not be less than eight days before the date set for the hearing.

§ 185. **Amendment.)** Section 40-29-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-29-20. Hearing on Snow and Ice Removal Assessment—Confirmation—Certificate Attached to Assessment List.) At the meeting of the governing body in June or at such later meeting as the hearing and confirmation of such assessment may be adjourned to, the governing body shall consider and hear any objection to the snow and ice removal assessment, or to any part thereof, and after revising or correcting the assessment, if revision or correction is necessary, it shall approve

and confirm the same. The city auditor shall attach to the assessment list his certificate that the list is correct as confirmed by the governing body and shall file the same in his office, and shall certify the assessment in the manner provided in section 40-24-11.

§ 186. Amendment.) Section 40-33-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-33-03. Sale or Lease of Plant, System, or Line—Offer or Written Proposition—Election—Proceeds.) No municipality shall sell any municipal plant, system, or line, nor lease the same, or any substantial part thereof, or interest therein, to any person, firm, or corporation unless the person, firm, or corporation shall have filed in the office of the auditor of the municipality a complete written offer or proposition, nor unless a majority of the qualified electors of the municipality shall have voted in favor of accepting the offer or proposition at an election called, held, and conducted as specified in section 40-33-02. A copy of the offer or proposition shall be published with the notice of the election. The proceeds of any sale or lease made according to this section shall be applied toward the payment of the existing indebtedness of the municipality incurred for the purpose of purchasing, erecting, operating, or enlarging, improving, or extending such plant, system, or line. The purchaser or lessee, however, shall not be required to see that the consideration of the purchase or lease is applied correctly as provided in this section, but he shall be protected fully in making the payment or payments by the receipt of the treasurer of the municipality. Nothing contained in this section shall prevent the governing body from selling or disposing of any machinery, material, or other property belonging to any such utility which may have been inadequate or insufficient for the purposes for which it was intended to be used.

§ 187. Amendment.) Section 40-33-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-33-14. Contract to Supply Surplus Water or Electricity Outside of Municipal Limits—Regulations Governing.) If the governing body decides to furnish electricity or water outside the municipal limits, it shall be done by a contract authorized by the governing body and executed on its part by the executive officer and the city auditor and by the customer or customers to be supplied. No such contract shall be authorized or entered into at any rate or price for electricity or water which shall discriminate against the inhabitants of the municipality, or which shall impose any direct tax burden upon the

taxable property in the municipality, or in such amount as will interfere with the ability of the municipality to provide adequate electricity or water for its own use and the use of the inhabitants thereof.

§ 188. Amendment.) Section 40-33-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-33-16. Municipality May Purchase Water for Distribution.) Any city owning a system for the distribution of water for fire protection and other public purposes and for selling water to its inhabitants and industries, but for which the water supply is unsuitable or inadequate, may contract to purchase water at wholesale for such purposes from any person, firm, or public or private corporation able and willing to furnish the same, upon such terms and during such period, not exceeding forty years, as the city governing body shall deem appropriate. Any such contract shall be authorized by an ordinance submitted to the voters for approval by a majority of those voting on the proposition before it takes effect. In and by such ordinance and contract, the city may bind itself:

1. To establish and maintain rates and charges for supplying water by it to its inhabitants and industries, either according to a prescribed schedule agreed upon or sufficient to produce net stated amounts for specified periods during the life of the contract, or both, and to appropriate and use the same for payments to become due under the contract, and, if the contract so provides, the city shall be obligated to pay for such water solely out of such net revenues;
2. To pay, at an agreed rate or rates, for all water taken by the city under such contract and not resold by it; and
3. To do and perform any other acts or things which, in the discretion of the governing body, are deemed reasonable and appropriate for the procurement of such water on the most efficient and economical basis.

If any payments under any contract are to be made solely out of net revenues, the contract may fix and prescribe the method or basis on which net revenues are to be computed.

§ 189. Amendment.) Subsection 5 of section 40-34-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

5. From moneys secured by the issuance and sale of first mortgage bonds secured by the assets and property of the improvement or system in like manner as provided

in subsection 4 of this section, except that such bonds may be issued for the total cost of the improvement upon compliance with this subsection. Bonds issued under this subsection shall be secured by a pledge of the net revenues of the improvement or system to be set apart as an interest and sinking fund to pay the principal and interest of such first mortgage bonds as they mature. If the method provided in this subsection is utilized by any municipality to defray the cost of a sewage disposal system, it, by a resolution of its governing body, shall create the district, provide for and approve the plans and specifications and estimates of the cost, and adopt and publish the resolution declaring the work necessary to be done in accordance with the requirements of chapter 40-22 as far as the same may be applicable. If the owners of property liable to be imposed with the sewage disposal service charges as provided in this subsection shall file with the city auditor, within thirty days after the first publication of the resolution, a written protest against the improvement, the governing body at its next meeting after the expiration of the time for filing protests against the improvement, shall hear and determine the sufficiency of the protests. After the hearing has been had, the governing body, if it finds the protests to contain the signatures of the owners of a majority of the property liable to be charged, shall not proceed further with the improvement. If the protests are found insufficient or invalid, the governing body of the municipality may cause the improvement to be made, contract therefor, and defray the cost thereof in the manner provided in this subsection.

§ 190. Amendment.) Section 40-38-03 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-38-03. Board of Directors—Appointment—Term of Office—No Compensation—Filling Vacancies—Organization.) The school board of a city establishing a public library and reading room, or of the school district within which such city is included, or the board of county commissioners for a county library, shall appoint a board of five directors representing both sexes from the citizens of the county or city, as the case may be, to govern such library and reading room. One of the directors of a municipal library shall be a member of the school board, and one member of a county board of directors shall be a member of the board of county commissioners. The terms of office of the members of the first board of directors shall be as follows: one member shall hold office for one year; two members shall hold office for two years; and two members

shall hold office for three years. The members, at their first meeting, shall determine the length of their respective terms by lot. Thereafter, the number of directors required to fill expired terms shall be appointed each year, and each such director shall hold office for a term of three years from the first day of July in the year of his appointment and until his successor has been appointed. No member of such board shall serve for more than two consecutive terms, after which an interval of one year must elapse before the same member may be reappointed. All vacancies on the board of directors shall be reported by such board to the school board or board of county commissioners, as the case may be, and shall be filled thereby. Appointments made to fill unexpired terms shall be for the residue of the term only. No compensation shall be paid or allowed to a director. Immediately after the appointment of its members, the board of directors shall meet and organize by electing a president and a secretary from among its number.

§ 191. Amendment.) Section 40-38-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-38-10. Contributions by Political Subdivision to Establishment of Library Without Election Authorized.) To aid and facilitate the organization of library service, the governing body of any city where the population is less than twenty-five hundred may appropriate annually from its general fund a sum not to exceed one thousand dollars for the purchase of books and periodicals to remain the property of the city and to be lent to any local library for free public use. The governing body shall appoint a book committee of three who shall select the books and periodicals from standard and recommended lists furnished by the state library commission. The selections so made by such committee shall be submitted to the governing body for approval and purchase by such governing body, provided that the amount so expended for such books and periodicals shall be within the amount appropriated therefor. Books and periodicals purchased with this fund shall be properly stamped as belonging to the city. Such appropriation shall be made and books and periodicals purchased without submitting the same to vote as provided in section 40-38-02.

§ 192. Amendment.) Section 40-39-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-39-01. Survey, Plat, and Estimate Made by City Engineer.) Whenever the governing body of a municipality shall deem it necessary to open, lay out, widen, or enlarge any street, alley, or public place within the municipality, it shall

cause an accurate survey and plat to be made by the city engineer, county surveyor, or other competent civil engineer, with an estimate of the probable cost of the improvement. Such engineer or surveyor shall file the survey, plat, and estimate in the office of the city auditor and shall retain a copy in his office.

§ 193. **Amendment.)** Section 40-39-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-39-02. Taking Private Property by Purchase or Eminent Domain—Special Assessments Levied—Limitation on General Tax.) If it is necessary to take private property in order to open, lay out, widen, or enlarge any street or alley in any incorporated municipality, it shall be done by purchase or by the exercise of the right of eminent domain. When property is purchased or a judgment for damages is entered for property taken for any such improvement, the governing body shall certify the purchase or judgment to the special assessment commission, which shall levy special assessments upon the property benefited to pay such judgment or the purchase price. Not more than three-fourths of the purchase price or judgment may be paid by the levy of a general tax upon all the taxable property in a city.

§ 194. **Amendment.)** Section 40-39-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-39-03. Grades of Streets, Alleys, and Sidewalks—Established—Record—Changing—Liability.) The governing body, by ordinance, may establish the grade of all streets, alleys, and sidewalks in the municipality as the convenience of its inhabitants may require. A record of the grades, together with a profile thereof, shall be kept in the office of the city engineer, or of the city auditor, if the city has no engineer. If the municipality changes the grade of any street after it has been established, it shall be liable to the abutting property owners for any damage they may sustain by reason of any permanent improvements made by them to conform to the grade as first established.

§ 195. **Amendment.)** Section 40-39-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-39-06. Petition Filed with City Auditor—Notice Published—Contents of Notice.) If the governing body finds that the petition for vacation is in proper form and contains the requisite signatures, and if it deems it expedient to consider

such petition, it shall order the petition to be filed with the city auditor who shall give notice by publication in the official newspaper of the municipality at least once each week for four weeks. The notice shall state that a petition has been filed and the object thereof, and that it will be heard and considered by the governing body or a committee thereof on a certain specified day which shall be not less than thirty days after the first publication of the notice.

§ 196. Amendment.) Section 40-39-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-39-08. Resolution To Be Published, Filed, and Recorded—Effect.) Before the resolution declaring the vacation of a public ground, street, or alley shall go into effect, it shall be published as in the case of ordinances. A transcript of the resolution, duly certified by the city auditor, shall be filed for record and duly recorded in the office of the register of deeds of the county in which the municipality is situated, and such resolution thereafter shall have the effect of conveying to the abutting property owners all of the right, title, and interest of the municipality to the property vacated.

§ 197. Amendment.) Section 40-40-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-40-02. Definitions.) In this chapter, unless the context or subject matter otherwise requires:

1. The term "governing body" shall mean the city council, board of city commissioners, park commissioners, or city manager;
2. The term "municipality" shall mean any city or park district in this state.

§ 198. Amendment.) Subdivision A of subsection 2 of section 40-40-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- A. Group A shall cover all maintenance and operation expenses, including all wages, salaries, and other items which comprise the current expenses of the municipality. Although the whole amount paid for wages and salaries may be stated in one sum in the budget statement, there shall be on file with the governing body and open to public inspection a detailed statement showing the names of all persons receiving salaries or wages and the annual amount paid to each person. Municipalities may also include as items of expense the following, which shall be placed in separate funds:

- (1) **Equipment replacement.** Such amount shall not exceed the total of the anticipated reasonable costs of depreciation for the ensuing fiscal year, based on current costs, on all equipment owned by the city, and no expenditure shall be paid out of said equipment replacement fund except for the purchase of equipment to replace equipment which is worn out, damaged or obsolete. The term "equipment" shall not include structures or building fixtures.
- (2) **Snow removal reserve.** Such amount shall not exceed the total of the anticipated reasonable costs of snow removal for the ensuing fiscal year, based on current costs and previous experience, and no expenditure shall be paid out of removal reserve fund except for the removal of snow from public streets or ways.
- (3) **Flood control reserve.** Such amount shall not exceed the total of the anticipated reasonable costs of flood control for the ensuing fiscal year, based on current costs and previous experience, and no expenditure shall be paid out of said flood control reserve fund except for the actual costs of flood prevention and control to the municipality.

§ 199. Amendment.) Section 40-40-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-40-06. Notice of Preliminary Budget Statement—Contents—How Given.) After the governing body has prepared the preliminary budget statement, the auditor of the municipality shall give notice that:

1. The preliminary budget is on file in the office of the auditor and that such budget may be examined by anyone requesting to do so;
2. The governing body will meet on the fourth Wednesday in July at a time and place specified in the notice for the purpose of adopting the final budget and making the annual tax levy; and
3. The governing body will hold a public session at such time and place at which any taxpayer may appear and discuss with such body any item of proposed expenditures or may object to any item thereof or to the amount of any such item.

The notice shall contain a statement of the total proposed expenditures under each group provided for in the preliminary budget and of the total proposed expenditures under all such

groups, but need not contain any detailed statement of the proposed expenditures. Such notice shall be published at least once, not less than six days prior to the budget hearing, in a newspaper published in the municipality, if there is one, and if no newspaper is published in the municipality, the notice shall be published not less than six days prior to such meeting in the official county newspaper.

§ 200. Amendment.) Section 40-40-10 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-40-10. Certified Copies of Levy and Final Budget Sent to County Auditor.) Immediately after the completion of the final budget and the adoption of the annual tax levy by the governing body of a municipality in accordance with the provisions of this chapter, and in no case later than September fifteenth, the auditor of the municipality shall send to the county auditor two certified copies of the levy as adopted and two certified copies of the final budget.

§ 201. Amendment.) Section 40-40-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-40-13. County Treasurer to Collect Municipal Taxes.) The county treasurer shall collect all municipal taxes, together with the interest and penalties thereon, if any, in the same manner as the general taxes are collected, and shall pay over to the treasurer of the municipality, on the first of each month on demand, all taxes so collected during the preceding month, with interest and penalties collected thereon, and forthwith shall notify the auditor of the municipality of the amount so paid over. The county treasurer shall take duplicate receipts for all amounts so paid to the treasurer of the municipality and shall send one of such receipts to the auditor of the municipality.

§ 202. Amendment.) Section 40-40-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-40-14. Municipal Taxes Collected To Be Credited to Appropriate Funds.) The treasurer and auditor of the municipality each shall apportion the amounts received for taxes from the county treasurer and shall credit each fund with its proportion or share according to the levy made by the governing body of the municipality. The county treasurer, at the time of paying over such funds, shall furnish the treasurer or the auditor of the municipality with a statement of the amount collected for each year separately, and such amount shall be

credited to the proper funds for the year for which it was collected.

§ 203. **Amendment.)** Section 40-40-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-40-17. Transfer from Other Items of Appropriation When Appropriation Insufficient.) If the appropriation for any particular purpose is found later to be insufficient to meet the necessary expenditures for that purpose, the auditor of the municipality, upon the order of the governing body, shall make a transfer of the required amount from any other item of appropriation. Except as otherwise provided in section 40-40-18, however, no transfers shall be made from a fund within group C to a fund or funds within groups A and B or from a fund or funds within groups A and B to a fund or to funds within group C.

§ 204. **Amendment.)** Section 40-41-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-41-02. Appointments to Board—Certification to City Auditor—Failure of Local Boards to Appoint Members.) On or before the fifteenth day of July of each year, the governing body of each municipality, school board, and park board mentioned in section 40-41-01 shall appoint its representatives to serve on the board of budget review for the current year. The appointments shall be certified to the city auditor. The auditor shall notify each governing body failing to certify its appointments that the board of budget review will meet for the purpose of organization and the appointment of members at large, giving the time and place of such meeting, and that unless such governing body shall certify the appointment of its representatives on the board on or before the date of the organization meeting, it will be without representation on the board for the current year.

§ 205. **Amendment.)** Section 40-41-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-41-03. Organization Meeting—Clerk—Members at Large Appointed—Members Receive No Compensation—Oath of Office—Vacancies.) The representatives of the local boards shall meet on the day appointed by the city auditor, which shall be not later than July twentieth, and shall organize by electing a chairman and vice chairman. The city auditor shall serve as clerk of the board of budget review. Such representatives shall appoint the members at large from the resident

freeholders of the municipality or school district. All members shall serve without compensation. Before entering upon the duties of his office, each member shall take, subscribe, and file with the city auditor the oath required of civil officers. Vacancies on the board shall be filled in the manner in which the original appointment was made.

§ 206. Amendment.) Section 40-41-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-41-07. Public Hearings on Preliminary Budgets and Proposed Bond Issues—Notice—Record of Proceedings of Board—Expenses of Board.) The board of budget review shall allow a public hearing on each preliminary budget and on each proposed bond issue submitted to it for review. Public notice of the time and the place of any such hearing shall be given by the board. The board shall keep a record of all of its proceedings, and such record shall be preserved in the office of the city auditor and shall be open to the inspection of the taxpayers of the municipality. The expenses of such board shall be paid by the municipality.

§ 207. Amendment.) Section 40-42-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-42-01. Claim Against Municipality for Damages Arising from Defective Streets, Sidewalks, or Bridges Must Be Filed.) Any claim against a municipality for damages or injuries alleged to have arisen from the defective, unsafe, dangerous, or obstructed condition of any street, crosswalk, sidewalk, culvert, or bridge of the municipality or from the negligence of the municipal authorities in respect to any such street, sidewalk, crosswalk, culvert, or bridge, shall be filed in the office of the city auditor within ninety days after the happening of such injury. Such claim shall be signed and verified by the claimant and shall describe the time, place, cause, and extent of the damage or injury, shall contain an abstract of the facts upon which the claim is based, and shall specify the amount of damages claimed therefor. If it shall appear by the affidavit of a reputable physician that the injured person was rendered, by the injury complained of, mentally incapable of making the claim within the time specified in this section, the claim may be filed, if the claimant survives, within ninety days after the claimant becomes competent to make the same. The affidavit of the physician shall be prima facie evidence of mental incapacity, and may be controverted on the trial of an action for such damages. If the injured person shall die within ninety days after the happening of the injury, or before he shall

become mentally competent to make the claim, the claim may be made within ninety days after the death of the injured person by any person having knowledge of the facts, and the person making such claim shall set forth therein specifically the facts relating to the injury of which he has personal knowledge and shall verify such facts positively. The facts of which the person making the claim has no personal knowledge shall be verified to the best of his knowledge, information, and belief.

§ 208. Amendment.) Section 40-42-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-42-02. Filing of Claim and Rejection Thereof Conditions Precedent to Bringing Action Against Municipality.) No action shall be maintained against any municipality for damages or injuries to person or property alleged to have arisen from the defective, unsafe, dangerous, or obstructed condition of any street, crosswalk, sidewalk, culvert, or bridge of the municipality or from the negligence of the municipal authorities in respect to any such street, sidewalk, crosswalk, culvert, or bridge unless it shall appear that the claim upon which the action is brought was filed in the office of the city auditor as required by section 40-42-01, nor unless the governing body of the municipality did not audit and allow the same within sixty days thereafter. It shall be incumbent upon the plaintiff to plead and prove the filing of such claim.

§ 209. Amendment.) Section 40-42-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-42-03. Time Limitation on Bringing of Action.) No action shall be maintained on any claim mentioned in section 40-02-01 unless it is brought within six months after the filing of the claim in the office of the city auditor.

§ 210. Amendment.) Section 40-43-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-43-03. Negotiable Bearer Bonds May Be Issued to Pay Compromised Amount — Regulations Governing.) The compromised amount of a judgment agreed upon may be made payable in stated annual installments over a period not exceeding twenty-five years and at a rate of interest not exceeding five percent per annum. The governing body, by a resolution adopted by an affirmative vote of two-thirds of its members, may issue negotiable bearer bonds payable serially and maturing annually, as the parties may agree, and in the amounts of the annual installments and interest determined by the com-

promise, in satisfaction and discharge of the judgment. Bonds issued under this section shall be delivered to the judgment creditor upon the release of the judgment and in consideration of the full satisfaction thereof. Such bonds shall be executed in the name of the municipality by the executive officer and the auditor thereof. Except as otherwise provided in this chapter, the bonds shall be in the form prescribed for municipal bonds which are payable from the levy of a general tax. Prior to the delivery of the bonds to the judgment creditor, the bonds shall be registered by the officer, in the office, and in the manner provided by the laws of this state for the registration of general obligation bonds of municipalities.

§ 211. Amendment.) Section 40-47-01 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-47-01. Cities 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 may regulate and restrict the height, number of stories, and the 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.

§ 212. Amendment.) Section 40-48-28 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-48-28. Maps Showing Reservations and Future Acquisitions for Streets—Hearing—Notice—Approval by Governing Body—Modifications—Filing.) After it has adopted any part of a master plan for any part of the territory within its planning jurisdiction, the planning commission may make or cause to be made, from time to time, surveys for the exact location of the lines of a street or streets shown in any portion of such master plan and may make a map of the land thus surveyed showing precisely the land which it recommends to be reserved for future acquisition for public streets. Before adopting any such map, the planning commission shall hold a public hearing thereon. A notice of the time and place of the hearing, with a general description of the district or area covered by the map, shall be given not less than ten days previous to the time fixed for the hearing by one publication in the official newspaper of

the municipality if the district or area affected is within the municipality, and in a newspaper of general circulation in the county if the district or area affected is outside of the municipality. After such hearing, the commission may transmit the map as originally made, or as modified by it, to the governing body together with the commission's estimate of the time or times within which the lands shown on the map as street locations should be acquired by the municipality. The governing body, by resolution, may approve and adopt or may reject such map, or it may modify the map with the approval of the planning commission, or in the event of the planning commission's disapproval, the governing body by a favorable vote of not less than two-thirds of its entire membership, may modify such map and adopt the modified map. In the resolution adopting the map, the governing body shall fix the period of time for which the street locations shown upon the map shall be deemed reserved for future taking or acquisition. The city auditor shall file for record an attested copy of the map with the register of deeds of each county in which the mapped land is located and shall retain one copy for examination by the public.

§ 213. Amendment.) Section 40-48-31 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-48-31. Modification of Street Lines — When Allowed — Agreement—Approval of New Map—Filing Map—Abandoning Reservation.) At any time after the filing of a map of the kind described in section 40-48-28 for record with the register of deeds and during the period specified for the reservation, the planning commission and the owner of any land containing a reserved street location may agree upon a modification of the location of the lines of the proposed street. Such agreement shall include a release by the owner of any claim for compensation or damages by reason of such modification. Thereupon, the commission may make a map corresponding to the modification and transmit the map to the governing body. If the modified map is approved by the governing body, the city auditor shall file for records an attested copy thereof with the register of deeds, and the modified map shall take the place of the original map. The governing body, by resolution, may abandon any reservation at any time. Any such abandonment shall be filed for record with the register of deeds.

§ 214. Amendment.) Section 40-48-35 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-48-35. Resolution and Map Recorded Upon Adoption.) Whenever any resolution adopting a street map shall have become final, the city auditor shall record in the office of the register of deeds of the appropriate county a notice referring to the resolution by number and other appropriate description, including the date of its adoption, and setting forth a description of the property contained within the proposed opening and widening lines or between the future street lines and the nearest public highway, together with a copy of the map showing any such line or lines.

§ 215. Amendment.) Section 40-49-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-49-02. Municipalities May Take Advantage of Chapter—Vote Required—How Taken.) Any incorporated city by a two-thirds vote of its governing body, at a regular meeting of such governing body, may take advantage of the provisions of this chapter. The vote of the governing body on such question shall be taken by yeas and nays.

§ 216. Amendment.) Section 40-49-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-49-04. Designation of Park District—General Powers—Definition.) A park district shall be known as “park district of the city of”. The park district shall have a seal and perpetual succession, and may:

1. Sue and be sued;
2. Contract and be contracted with;
3. Acquire by purchase, gift, devise, or otherwise, and hold, own, possess, and maintain real and personal property in trust for use as parks, boulevards, and ways; and
4. Exercise all the powers designated in this chapter.

“Park”, as used in this chapter, and in other statutes relating to park districts, unless from the context a contrary intent plainly appears, shall include, but without limitation thereto, public grounds used or acquired for use as airfields, parade grounds, public recreation areas, playgrounds and athletic fields, memorial or cemetery grounds, and sites or areas devoted to use and accommodation of the public as distinguished from use for purposes of municipal administration.

§ 217. Amendment.) Section 40-49-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-49-07. Election and Qualification of Members of Board of Park Commissioners.) The members of the board of park commissioners shall possess the qualifications of electors of the municipality and shall be elected by the qualified electors of the park district. The members of the first board may be elected at any regular municipal election or at a special election called for that purpose by the governing body of the municipality. Thereafter, members of the board shall be elected at the regular municipal elections. Such members shall qualify within ten days after their election by taking and filing with the city auditor the oath prescribed for civil officers.

§ 218. Amendment.) Section 40-49-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-49-08. Organization of Board of Park Commissioners—Municipal Treasurer to Act as Treasurer of Board.) On the third Tuesday in April after their election, the members of the board of park commissioners shall organize the board by selecting a president and a vice president. The treasurer of the municipality shall be ex officio treasurer of the park district and shall take oath prescribed for civil officers and shall furnish such bond as may be required by the board.

§ 219. Amendment.) Subsection 1 of section 40-49-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Acquire by purchase, gift, devise, condemnation, or otherwise, land anywhere within this state for parks, boulevards, and ways. The board shall have the sole and exclusive authority to maintain, govern, and improve the land, and to provide for the erection of structures thereon. Such parks, boulevards, and ways shall be considered for purposes of taxation and for all other purposes as being within the territorial limits of the municipality. Where the board has acquired the legal title in fee to such lands, it may sell and convey the same. A conveyance shall be executed by the president and clerk of the board upon a resolution approved by not less than two-thirds of the members thereof;

§ 220. Amendment.) Section 40-49-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-49-13. Ordinances — Powers Exercised by — Readings — Adopting — Approving — Publication — Enacting Clause.) The powers of the board of park commissioners shall be exercised by ordinance unless otherwise provided in this chapter. All

ordinances shall be read twice, and at least eight days shall intervene between the readings. Ordinances shall be adopted by a yea and nay vote, shall be approved by the president, shall be published once in the official newspaper of the municipality, and shall go into effect within three days after the publication thereof. The enacting clause of all ordinances shall be: "Be it enacted by the board of park commissioners of the park district of the city of"

§ 221. **Amendment.)** Section 40-49-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-49-17. Jurisdiction to Determine Actions Involving Violations of Ordinances of Board of Park Commissioners.) Full and exclusive jurisdiction to try and determine all causes of action involving violations of rules or ordinances enacted by the board of park commissioners shall be vested in the municipal judge. The procedure, including the right of appeal, shall be the same as in actions involving offenses against city ordinances.

§ 222. **Amendment.)** Section 40-50-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-50-16. Completed Plat Filed with City Auditor—Notice of Completed Plat Published.) The completed plat shall be filed with the city auditor who shall publish a notice of the filing thereof once each week for three consecutive weeks. Such notice shall stipulate that all interested parties may view the plat and shall set forth a date when the governing body of the municipality will meet to hear and consider objections to the survey as made.

§ 223. **Amendment.)** Section 40-50-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-50-19. Assessment of Costs of New Plat—Publication of Assessments—Approval of Assessments.) The municipal or other competent engineer making the corrected plat shall assess all cost of making such plat against the property benefited proportionately to the benefits received. The assessments shall be published in full by the city auditor in the official newspaper of the municipality and shall be subject to the approval of the governing body of the municipality after due consideration and hearing of any and all objections at a meeting designated for that purpose in the notice and publication of the assessment. Such assessments, when approved by the governing body, shall be certified to the county auditor and shall be payable in one installment.

§ 224. **Amendment.)** Section 40-50-22 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-50-22. Application to Alter or Vacate a Townsite—Publication.) Any proprietor of a townsite who is desirous of altering or vacating the same or any part thereof shall give notice of the intended application by publishing written notice thereof in the official county newspaper once in each week for at least forty days prior to the sitting of the court to which the proprietor intends to make the application.

§ 225. **Amendment.)** Section 40-55-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-55-01. Definitions.) 1. The term “governing body” as herein used means city council, board of trustees or commissioners of any city, township, the trustees of any school district and the commissioners of any park district in North Dakota.

2. The term “municipality” as used in this chapter refers to and means any city or township in North Dakota.

§ 226. **Amendment.)** Subsections 2, 3, and 4 of section 40-58-19 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

2. “Municipality” shall mean any incorporated city in the state.
3. “Public body” shall mean the state or any municipality, township, board, commission, authority, district, or any other subdivision or public body of the state.
4. “Local governing body” shall mean the city council, the board of city commissioners, or the board of township supervisors, as the case may be.

§ 227. **Amendment.)** Section 40-59-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-59-02. Resolution and Notice of Election.) The resolution and order of the governing body of the municipality calling an election pursuant to the provisions of this chapter shall contain a general description of the precise purpose for which a tax is to be levied and collected, the maximum mills per annum to be levied not to exceed two mills per annum, and the time when such election shall be held. Notice of the adoption of such resolution and of the election to be held in pursuance thereof shall be published by the auditor thirty days prior to the day of election.

§ 228. Amendment.) Section 40-59-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-59-03. Form of Ballot.) The form of the ballot at an election authorized by this chapter shall be prepared by the auditor and shall be substantially as follows:

Shall a levy of not to exceed two mills be made for the purpose of

- YES
- NO

There shall be inserted in the blank space in such question appropriate words describing the purpose and nature of the improvement to be undertaken.

§ 229. Amendment.) Section 47-19-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

47-19-14. Acknowledgment and Proof—Limited to District of Officer.) The proof or acknowledgment of an instrument may be made in this state within the judicial district, county, subdivision, or city for which the officer was elected or appointed, before:

1. A judge or clerk of a court of record;
2. A mayor of a city;
3. A register of deeds;
4. A county justice;
5. A United States commissioner;
6. A county auditor; or
7. A township clerk or a city auditor.

§ 230. Amendment.) Section 48-04-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

48-04-01. Joint Ownership and Use of Public Buildings and Grounds—Townships—Cities—Special Elections.) Any civil township and incorporated city located within the boundaries thereof, when authorized by three-fourths of the legal voters of each municipality present and voting at separate elections, may acquire and use jointly any public buildings and grounds within the corporate limits of either one. The question of such joint acquisition and use may be submitted at regular or legally called special elections of both municipalities held not more

than three months apart and when once submitted may not again be submitted within one year.

§ 231. **Amendment.)** Section 48-04-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

48-04-02. Joint Custody and Control of Public Buildings and Grounds.) Such public buildings and grounds as are provided for in section 48-04-01, shall be in the joint custody and control of the governing boards of such city and township, which shall make and enforce lawful and reasonable regulations for the care, protection, and use thereof.

§ 232. **Amendment.)** Section 48-04-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

48-04-03. Incurring Indebtedness for Payment of Public Buildings and Grounds.) Townships or cities may incur indebtedness, and may provide for the payment thereof severally, but not jointly, for the acquisition of any such public buildings and grounds in the manner provided by chapter 21-03 of the title Governmental Finance.

§ 233. **Amendment.)** Section 50-16-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-16-01. Community Youth Council Authorized.) A community youth council may be established in any city or township in this state. Such a council may be initiated by:

1. The mayor of any city or by the president of the board of city commissioners;
2. The chairman of the board of supervisors of any township; or
3. The superintendent or principal of the schools of any municipality or community.

§ 234. **Amendment.)** Section 53-02-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

53-02-08. Officer of Law To Be in Attendance at Public Dance.) It shall be the duty of the sheriff in any county in which any public dance is held outside of an incorporated city, and of the chief peace officer of the city where the dance is held within the limits of a city, to police such dance so that law and order are there maintained. The person conducting any such dance, before the dance shall be held, shall pay to such sheriff or peace officer the expense of any deputy sheriff

or special officer required for the proper policing of such dance, and no such dance shall be permitted to proceed unless such officer is present and his fees are paid. The holding of such dance without giving notice thereof to the sheriff of the county or the peace officer of the city, and without making provision for the policing thereof, is a misdemeanor. No person, directly or indirectly interested or concerned in the giving, holding, or conducting of such public dance, or connected with the person conducting the same, shall be eligible to appointment under this section as a special officer.

§ 235. Amendment.) Subsection 3 of section 53-03-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. "Governing body" shall mean a city council, or a board of city commissioners, as the case may be, or the agents of any such governing body duly authorized to make any contract or to issue any permit as provided in this chapter;

§ 236. Amendment.) Section 53-06-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

53-06-06. Refusal or Revocation of License — Procedure.)

The attorney general may refuse to issue a license to any person for any place where it appears:

1. That the applicant is an improper person to be licensed;
2. That the place is not provided properly with sanitary equipment;
3. That the building is not suitable for the protection of the life and limbs of the public who may frequent the same;
4. That there are not suitable appliances for the protection of the public in case of fire; or
5. That for any other reason it is an improper place to be licensed.

The attorney general, after a hearing before him upon any violation by a licensee of any statute of this state, is authorized to revoke any license granted pursuant to the provisions of this chapter. After the licensee has pleaded guilty to, or has been convicted of, a violation of any law or ordinance of any city regulating the business licensed a second time, his license shall be revoked and for one year neither he nor any place in which he may have any financial interest may be licensed again.

§ 237. Amendment.) Section 57-12-01 of the 1965 Supplement to 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 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 board of equalization, or his appointed representative, and each city 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 necessarily 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 or township in the same manner as other city or township expenses are paid.

§ 238. Amendment.) Section 57-12-01.1 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-12-01.1. 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 town-

ships and cities that their property assessments shall be reviewed. The board of county commissioners shall direct the boards of equalization of townships or cities 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.

§ 239. Amendment.) Section 57-12-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-12-02. Duties of Board as to Assessments in Unorganized Territory.) The members of the board of county commissioners also shall meet as a board of equalization as respects all assessments made in assessment districts not embraced in a city or organized township, and shall perform the duties prescribed for a township board of equalization as respects unorganized territory, and such board shall be regarded as the local board of equalization for such territory.

§ 240. Amendment.) Subdivisions a and b of subsection 2 of section 57-12-06 of the 1965 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

- 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 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 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.

§ 241. Amendment.) Subsections 1 and 3 of section 57-13-04 of the 1965 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

1. Equalize the assessment of land by adding to the aggregate value thereof in any assessment district in a county and in every county in the state in which the board may believe the valuation too low, such rate percent as will raise the same to its proper relative value, and by deducting from the aggregate assessed value thereof, in any assessment district in a county and in every county in the state in which the board may believe the value too high, such percent as will reduce the same to its proper relative value. City lots shall be equalized in the manner provided for equalizing other lands;
3. In making such equalization, add to or deduct from the aggregate assessed valuation of lands, city lots, or any class of personal property throughout the state, such percent as may be deemed by the board to be equitable and just, but in all cases of addition to or deduction from the assessed valuation of any class of property in the several assessment districts in each county and in the several counties of the state, or throughout the state, the rate percent of addition or deduction shall be even and not fractional; and

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

57-15-01. Levy in Specific Amounts—Exceptions.) With the exception of special assessment taxes and such general taxes as may be definitely fixed by law, all state, county, city, township, school district, and park district taxes shall be levied or voted in specific amounts of money.

§ 243. **Amendment.)** Section 57-15-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-07. City Tax Levies.) City taxes shall be levied by the governing body of the municipality at an annual meeting on the fourth Wednesday of July each year, or within ten days thereafter, and in any such levy the governing body shall be limited by the amount necessary to be raised to meet appropriations included in the annual budget of the current fiscal year and to provide a reserve fund as limited in this chapter, together with a tax sufficient in amount to pay the interest on the bonded debt of the municipality, and to provide a sinking fund to pay and discharge the principal thereof at maturity.

§ 244. **Amendment.)** Section 57-15-10 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-10. Exceptions to Tax Levy Limitations in Cities.) The tax levy limitations specified in section 57-15-08 shall not apply to the following items:

1. Taxes levied pursuant to law for a proportion of the cost of a special improvement project by general taxation;
2. Taxes levied pursuant to law for the purpose of paying a deficiency in connection with a special improvement project;
3. Taxes levied to pay interest on a bonded debt, or the principal of such debt, at maturity;
4. Taxes levied for the purpose of paying any final judgment or judgments obtained against any city, if the aggregate amount levied for the purpose of paying any final judgment or judgments shall not exceed such amount as will be produced by a levy of five mills on the net taxable assessed valuation of the property in such city. This section shall not be deemed or construed to modify, qualify or limit the authority of any city to issue bonds pursuant to law in case the governing body of any such city shall not deem it advisable to pay such judgment or judgments out of current revenues;
5. Taxes levied for the purpose of establishing and maintaining a library fund for public library services; and
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.

§ 245. **Amendment.)** Section 57-15-10.1 of the 1965 Supplement to 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 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 or city 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 or city. The levy of such one-half mill authorized by this section shall not be subject to other mill limitations prescribed by law.

§ 246. **Amendment.)** Section 57-15-27 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-27. Interim Fund.) The governing body of any county, city, school district, park district, or other municipality authorized to levy taxes, may include in its budget an item to be known as the "interim fund" which shall be carried over to the next ensuing fiscal year to meet the cash requirements of all funds or purposes to which the credit of the municipality may be legally extended, for that portion of such fiscal year prior to the receipt of taxes therein. In no case shall such interim fund be in excess of the amount reasonably required to finance the municipality for the first nine months of the next ensuing fiscal year. Such interim fund shall not be in excess of three-fourths of the current annual appropriation for all purposes other than debt retirement purposes and appropriations financed from bond sources.

§ 247. **Amendment.)** Section 57-15-27.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-27.1. Cemetery Tax Levies.) Organized townships and cities are hereby authorized to levy a tax, not exceeding two mills on the dollar of the net assessed taxable valuations of the organized townships or cities, in addition to all levies now authorized by law, for the purpose and to be used exclusively

for the care, maintenance, and improvement of established cemeteries, owned and maintained by such organized townships or cities.

§ 248. **Amendment.)** Section 57-15-30 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-30. When Tax in Townships and Cities To Be Levied by County Commissioners.) Whenever any city or township having an existing liability or indebtedness is authorized to levy taxes for the payment of the same and fails or refuses to elect proper officers for the government of the municipality, the board of county commissioners of the county in which the municipality is located, upon a proper showing by any person having a legal or subsisting claim against the municipality that there are no legal officers in the municipality authorized to levy a tax for the payment of such indebtedness, shall levy a tax as the governing body would be authorized to levy the same for the payment of such indebtedness. Any person having a claim against such municipality shall have the same right to enforce the levy of such tax by the board of county commissioners that he would have had to compel such levy by the officers of the municipality had they been properly elected and qualified.

§ 249. **Amendment.)** Section 57-15-31 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-31. Determination of Levy.) The amount to be levied by any county, city, township, school district, park district, or other municipality authorized to levy taxes shall be computed by deducting from the amount of estimated expenditures for the current fiscal year as finally determined, plus the required reserve fund determined upon by the governing board from the past experience of the taxing district, the total of the following items:

1. The available surplus consisting of the free and unencumbered cash balance;
2. Estimated revenues from the sources other than direct property taxes;
3. The total estimated collections from tax levies for previous years; and
4. Such expenditures as are to be made from bond sources.

Allowance may be made for a permanent delinquency or loss in tax collection not to exceed five percent of the amount of the levy.

§ 250. **Amendment.)** Section 57-15-32 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-32. Certification of Levy.) The taxes levied or voted by any city, township, school district, park district, or other municipality authorized to levy taxes, shall be certified by the officer acting as clerk of the governing body of such municipality to the county auditor immediately following the action of the governing body, or within ten days thereafter.

§ 251. **Amendment.)** Section 57-15-37 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-37. Tax Levy for Airport Purposes in Park Districts.) In park districts supporting airports, a levy in addition to all other levies permitted by law but not to exceed four mills on the net taxable assessed valuation of property in such park district may be made for such purpose; provided, however, that said levy may be made by not more than one of the said political subdivisions in any one taxing district.

§ 252. **Amendment.)** Section 57-15-38 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-38. Tax Levy for Construction Fund in Cities.) The governing body of any city may levy taxes annually for a period not to exceed ten successive years for a construction fund, not in excess of five 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 city which, at the time of making the annual levy, has no outstanding unpaid certificates of indebtedness, and in which the limitation of levy has not been increased from the basic mill rate. Such construction fund shall be used for paying all or part of the construction of waterworks systems, sewage systems, public buildings, or any other public improvements for which cities are authorized by law to pay for from general tax levies, and the governing body of any city, when submitting to the electors of the city, the question of authorizing the aforesaid tax levy, shall specify the purposes for which said construction fund is to be used. The governing body of such city 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 the appropriations to pay interest and principal of the bonded debt, and not in excess of the limitations prescribed by law.

§ 253. Amendment.) Section 57-15-39 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-39. Disposition of Construction Fund Tax.) Revenues raised for construction purposes shall be disposed of as follows:

1. All revenues accruing from appropriations or tax levies for a construction fund, together with such amounts as may be realized for construction purposes from all other sources, shall be placed in a separate fund known as a city construction fund, and shall be deposited and held as the sinking funds of such cities are held. Such fund shall be used solely and exclusively for the purpose of constructing waterworks systems, sewage systems, public buildings or such other public improvements as the electors may have authorized and shall be paid out by the custodian thereof, only upon order of the governing body of such city, signed by the mayor or president of the board of city commissioners and the city auditor of said city; such order must recite upon its face the purpose for which such payment is made;
2. Any moneys remaining in a construction fund after the completion of the payments for any city construction fund project which has cost seventy-five percent or more of the amount in such construction fund at the time of letting the contracts therefor, shall be returned to the general fund of the city upon the order of the governing body of such city;
3. Upon the first day of June of each year, the custodian of any city construction fund, shall pay into the general fund of such city, any moneys which have remained in such fund for a period of ten years or more, the custodian shall consider that all payments which have been paid from the city construction fund for building purposes have been paid from the fund first acquired.

§ 254. Amendment.) Section 57-15-40 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-40. Penalty for Unlawful Withdrawal of Construction Fund.) Every officer participating in the unlawful withdrawal of any city construction fund, shall be guilty of a misdemeanor, and shall be liable for the loss to such construction fund on his official bond.

§ 255. Amendment.) Section 57-15-41 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-41. Political Subdivision Tax Levies for Payment of Special Assessments Exempt from Levy Limitations.) No tax levy limitations provided by any statute of this state shall apply to tax levies heretofore or hereafter made by any county, city, school district, park district, or township for the purpose of paying any special assessments made in accordance with the provisions of title 40 of this Code, against property owned by such county, city, school district, park district, or township.

§ 256. Amendment.) Section 57-15-42 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-42. City Fire Department Reserve Fund Levy.) The governing body of any city, when authorized to do so by sixty percent of the electors voting on the question in a regular or special election called by the governing body, may levy taxes annually, not in excess of two mills on the net taxable assessed valuation, for a fire department building or equipment reserve fund. Such levy shall be in addition to and not restricted by the levy limitations prescribed by law. The proceeds of such levy shall be placed in a separate fund known as the fire department reserve fund and shall be used solely and exclusively for the purchase of necessary fire fighting equipment or building therefor. No levy shall be made under this section during any period in which the moneys in the fund equal or exceed an amount equal to the sum that would be produced by a levy of ten mills upon the net taxable assessed valuation of the city making such levy.

§ 257. Amendment.) Section 57-15-43 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-43. Tax Levy for City Having an Organized Firemen's Relief Association — Limitations — Disbursement.) In addition to any other levies authorized by law for general purposes, any city having an organized firemen's relief association as provided for under chapter 18-05, may levy an annual tax of not more than one-half of one mill upon its taxable valuation for the purpose of assisting such firemen's relief association in providing for the pension and relief provided for by such association.

On the last day of June and December of each year, the treasurer of any municipality covered by this section shall deliver and turn over to the treasurer of any such firemen's relief association, having qualified as provided for in chapter 18-05, all moneys collected under the provisions of this section.

§ 258. Amendment.) Section 58-02-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

58-02-10. Division of Township in Which There Are Two or More Municipalities.) The board of county commissioners may divide a township in which there are two or more cities, each containing two hundred or more inhabitants, upon the petition of a majority of the legal voters to be affected. If the division is ordered, it shall be made in the manner best suited to the convenience of the territory concerned.

§ 259. Amendment.) Section 58-03-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

58-03-04. Townships Provide for Confinement of Prisoners.) A township containing a platted townsite shall have the power, at the annual township meeting, to vote any appropriations necessary to provide a place for the confinement of prisoners, and may adopt such regulations as may be necessary in relation thereto.

§ 260. Amendment.) Section 58-04-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

58-04-01. Annual Township Meeting—When Held—Change in Meeting Place—Notice.) The electors of each township annually shall assemble and hold a township meeting on the third Tuesday in March at such place in the township as the electors thereof at their annual township meetings from time to time shall designate. Notice of the time and place of holding the meeting shall be given by the township clerk by posting written or printed notices in the three most public places in the township at least ten days prior to the meeting. Before a change in the place of holding the annual township meeting is made notice of the contemplated change may be given by any member of the board of township supervisors to the township clerk, who shall incorporate in his regularly printed or written notices, the special notice of the contemplated change of the place of holding such meeting; provided, that where an incorporated city is wholly or partially within the boundaries of a township, all township meetings may be held in such place within such incorporated city, as the electors thereof may designate at an annual township meeting.

§ 261. Amendment.) Subsections 4 and 18 of section 58-06-01 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

4. When a city which is laid out into streets is included within the limits of the township, to cause improvements to be made in any street that may be needed as a highway if the city neglects to make the improvements.
18. To pay all, or a part of the cost of electricity used in electrically lighting the streets of cities located within the township.

§ 262. **Amendment.)** Section 58-10-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

58-10-04. Powers of Constables to Arrest for Disorderly Conduct in a City.) A constable in an organized township containing a city shall have the power to arrest and detain any person for disorderly conduct within the city without process first issuing.

§ 263. **Amendment.)** Section 58-15-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

58-15-01. Petition for Policeman in Townsite—Contents of Petition.) If sixty percent of the electors residing within the limits of any platted unincorporated townsite shall petition the board of supervisors of the township in which it, or the greater portion thereof, is situated, praying for the appointment of a policeman to serve as a night watchman in such townsite and for the levy of a tax on the property therein to pay such officer, and stating the period for which the appointment is to be made, and the name of the townsite for which such police officer is to be appointed, the board of township supervisors shall appoint such officer for the period designated in the petition and fix his compensation.

§ 264. **Amendment.)** Section 58-15-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

58-15-02. Tax Levy for Policeman—Certification—Extension.) If a petition filed under the provisions of section 58-15-01 is found sufficient, the board of township supervisors, at the time the general township tax levy is made, shall levy upon all the property within the unincorporated townsite from which the petition is received, the specific amount fixed by the board as the compensation of the policeman. The amount so levied shall be certified to the county auditor when other township taxes are certified. The county auditor shall calculate the mill levy necessary to raise the sum and extend the same on the tax list of the township against the property

within the unincorporated townsite in a column entitled "police tax".

§ 265. Amendment.) Section 58-15-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

58-15-03. Bond of Policeman—Removal by Board. The policeman appointed to act in an unincorporated townsite shall give a bond and qualify in the same manner as township constables. The bond shall be in the amount fixed by the board of township supervisors and shall be filed as other township officers' bonds are filed. The board of township supervisors may remove the police officer whenever it shall deem it expedient.

§ 266. Amendment.) Section 58-15-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

58-15-04. Powers, Duties, and Authority of Policeman.) A policeman appointed under this chapter shall have the same powers, duties, and authority as the constable of the township. During the period for which he is appointed, the policeman shall patrol the unincorporated township each night, and shall guard against fire, theft, and burglary, preserve the peace, and execute the laws of this state.

§ 267. Amendment.) Section 58-15-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

58-15-07. Collection, Payment, and Account of Taxes.) The tax levied to provide a police officer in an unincorporated townsite shall be collected and paid over as other township taxes are collected and paid, and the treasurer of the township shall keep a separate account thereof.

§ 268. Amendment.) Section 58-16-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

58-16-01. Petition for Construction of Sidewalks or Installation of Street Lights in Unincorporated Townsites—Contents—Ordering Construction or Installation.) When a majority of the lot owners on any street in any block within the platted limits of an unincorporated townsite shall petition the board of supervisors of the township in which the unincorporated townsite, or the greater portion thereof, is situated, praying that a sidewalk be constructed or street lights be installed along the side of a street or thoroughfare within the platted limits described in the petition, the board, by resolution, shall

order the construction of the sidewalk or a portion thereof by the owner of the land along which the sidewalk is to be built, if it appears that the sidewalk described and prayed for in the petition is necessary to connect sidewalks already built or that public convenience and necessity require its construction, and shall order and make all necessary contracts and arrangements for the installation of street lights if the public convenience or necessity require the installation.

§ 269. **Amendment.)** Section 58-16-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

58-16-02. Notice to Owner to Construct Sidewalk—Failure to Construct.) Two publications of the resolution provided in section 58-16-01 in a paper printed or published in the unincorporated townsite shall be sufficient notice to the owner of the land along which the sidewalk is to be built to construct the same. If no newspaper is published in the unincorporated townsite, the resolution shall be published in a newspaper in the municipality nearest to the unincorporated townsite. If the owner fails to construct a fully completed sidewalk within thirty days after the last publication of the resolution, the board of township supervisors shall cause such portion of the sidewalk as has not been built by the owners of the lands to be built at the expense of the owners upon contract or in such manner as the board may determine.

§ 270. **Amendment.)** Section 61-01-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-01-18. State or Municipalities May Join Water Users' Associations—Fee for Recording Articles by Register of Deeds.) The state of North Dakota, through the board of university and school lands, and the counties, townships, and cities of the state, through their corporate authorities, may join water users' associations. The register of deeds shall accept from water users' associations organized in conformity with the requirements of the United States under the Reclamation Act, books containing printed copies of their articles of incorporation and forms of subscription to stock, and shall use such books for recording the stock subscriptions of such associations. The charges for the recording thereof shall be made on the basis of the number of words actually written therein.

§ 271. **Amendment.)** Section 61-21-62 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-21-62. Board of Drain Commissioners May Apportion Assessments for Benefits of an Established Drain Against a County or City or Any Tract of Land Benefited by an Established Drain.) Whenever a board of drain commissioners discovers or ascertains that the county, a township, or city therein, or that any tract, parcel or piece of land is being benefited by an established drain and that the county or such township, municipality, tract, piece or parcel of land was not included in the drainage area assessed for the cost of construction and maintenance of the drain when established, the board shall commence proceedings for reassessment of lands originally assessed for the cost of establishing and constructing such drain and shall apportion and assess the part of the balance remaining unpaid, if any, of the cost of such drain, and the expense of maintenance thereof, which such county, township, or city and each tract of land found benefited thereby should bear.

Before making such reassessment or reapportionment of benefits, the board shall hold a hearing for the purpose of determining the benefits of the drain to the county, such township, or city and to each tract, piece or parcel of land being benefited. 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 to each owner of land assessed for the cost of construction and maintenance when the drain was established, and by mailing such notice to the governing board of the county, township, municipality and to the owner of each tract, piece or parcel of land found to be benefited since the establishment of the drain, as determined by the records in the office 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 the reassessment and assessment of benefits carried out under the provisions of this section.

§ 272. Amendment.) Section 62-01-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

62-01-06. License to Carry Weapon—Who May Issue.) A license to carry a pistol within this state may be issued upon application by any of the following persons:

1. A judge of a court of record of this state;
2. The chief of police of any city in this state;
3. The sheriff of any county in this state; and
4. Any person authorized to issue such licenses by any of the officers hereinbefore named.

§ 273. **Amendment.**) Section 63-02-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

63-02-01. Commissioners of Noxious Weeds—Appointment—Oath—Term of Office—Removal from Office.) The board of county commissioners of any county whenever deemed advisable may, and if petitioned by at least ten percent of the freeholders of the county, shall appoint in and for each commissioner district therein a competent person commissioner of noxious weeds. Likewise the governing board of any city, township, or irrigation district in any county may, when considered advisable, and shall when petitioned by ten percent of the freeholders thereof, submit such questions to the electors of such municipality or subdivision at the next special or general election, and if approved by a majority vote such governing board shall appoint in and for the city, township, or irrigation district, as the case may be, a weed commissioner. A person appointed weed commissioner by a board of county commissioners or by the governing board of a city, township, or irrigation district therein shall qualify by taking the oath of office required of civil officers and shall hold office for the term of one year and until his successor is appointed and qualified. Any weed commissioner may be removed from office by the board which appointed him and his successor appointed to serve the balance of his term.

§ 274. **Amendment.**) Section 63-02-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

63-02-03. Deputy Commissioners of Noxious Weeds—Appointment—Term of Office—Compensation.) Each commissioner of noxious weeds may, with the consent and approval of the board which appointed him, appoint one or more deputies. Each such deputy commissioner of noxious weeds shall serve during the pleasure of the commissioner of noxious weeds or of the board which appointed the commissioner of noxious weeds. A deputy weed commissioner shall receive such compensation for his services as shall be fixed by the board of county commissioners or the governing board of the city, township, or irrigation district in and for which he is appointed.

§ 275. **Amendment.**) Section 63-02-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

63-02-05. Reports of Commissioners of Noxious Weeds—When and Where Filed—Duty of County Agents and Director of Extension Service.) 1. Every commissioner of noxious weeds appointed by a board of county commissioners or the

governing board of a city, township, or irrigation district shall report to the county extension agent of the county in which he serves as commissioner of noxious weeds, the existence in his district, city, or township, as the case may be, of such weeds, the varieties thereof, and his treatment of the premises infested thereby; and if a county agent is not employed in his county, he shall submit such report to the director of the extension service of the North Dakota agricultural college. It shall be the duty of each county extension agent to report to the director of the extension service the presence of noxious weeds in his county, and the varieties thereof, and what methods, if any, are employed to combat and eradicate such weeds. The director of extension shall assemble and compile the data and information contained in such reports and shall furnish such county agent or weed commissioner information, advice, and direction for the eradication of such weeds. And it shall be the duty of a county agent to advise, consult and cooperate with the commissioner of noxious weeds in his county in the work of eradicating such weeds.

2. Every commissioner of noxious weeds, on or before the first day of December in each year shall submit a written report to the governing board of the county, city, township, or irrigation district, which appointed him. Such report shall be filed with the county auditor, or auditor of the city or clerk of the township, or irrigation district, as the case may be. The report shall be publicly read at the regular meeting of such board following its filing and shall be subject to inspection thereafter by any person interested. Such report shall clearly state and show:

- a. Where noxious weeds are growing in his district;
- b. If any are growing, where and to what extent and when and how the same were introduced;
- c. A detailed statement of his treatment of each infected tract, with the cost and result thereof;
- d. His views on the further treatment of each infected tract and such suggestions and recommendations as he may deem proper and useful;
- e. Such other matters as may be required by the board of county commissioners or governing board of a city, township, or irrigation district.

§ 276. **Amendment.)** Section 63-02-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

63-02-06. Tax Levy to Cover Salary and Expenses of Weed Commissioners—Appropriation—Audit and Allowance.) The board of county commissioners of any county and the governing board of a city, township, or irrigation district may, if found necessary, levy a tax on all taxable property therein to cover the salary and expenses of each commissioner and deputy commissioner of noxious weeds and the cost incurred in the eradication of such weeds. Such tax may be levied in excess of the mill levy limit prescribed by law for general purposes but any such excess levy must first be approved by the electors of such county, city, township, or irrigation district at any special or general election. Payment of salary and expenses of a commissioner of noxious weeds and of his deputy, if any, and other expenses, shall be made upon verified vouchers duly audited and approved in the manner provided for payment of ordinary expenses.

§ 277. Amendment.) Section 63-02-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

63-02-07. Notice to Destroy Noxious Weeds.) If a commissioner of noxious weeds, or his deputy, finds noxious weeds on any land within his district, city, or township, including streets, highways, railroad rights-of-way and state school lands, he shall immediately notify in writing, the owner, lessee or occupant of such land, or the person, agent or official having the care thereof, to cause such weeds to be destroyed on or before a date stated in the notice. The date so fixed shall not be less than five days from the date of the serving or posting of such notice.

§ 278. Amendment.) Subsection 4 of section 63-02-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. If any such weeds are found growing upon land owned by a nonresident of the county, city, township or irrigation district in which the land is located and the owner has no agent known to the commissioner of noxious weeds residing in the county, city, township, or irrigation district, the notice shall be served by posting the same in a conspicuous place upon the land where it can be seen by the traveling public; and

§ 279. Amendment.) Subsection 3 of section 63-02-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. A notice requiring such person to pay the sum set forth in the statement to the treasurer of the county, city,

township, or irrigation district in which such real estate is located within twenty days after the date of the mailing of the statement; and

§ 280. Amendment.) Section 63-02-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

63-02-14. Expenses Not Collected from Private Persons Payable by County, City, District or Township.) If any owner, lessee, occupant, agent, or person who is in charge, of any land fails to make the payment demanded in any verified statement mailed to him within the time stated therein, the county auditor shall present the statement to the governing board of the county, city, district, or township as the case may be, and the board shall allow the same and the sum so allowed shall be paid by the county, city, district, or township treasurer out of the proper fund.

§ 281. Amendment.) Section 63-02-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

63-02-16. When Authority of Overseers of Highways Over Destruction of Noxious Weeds Suspended.) In any county, city, district, or township which adopts the provisions of this chapter, the authority granted to overseers of highways under the provisions of section 63-01-06 shall be suspended with reference to noxious weeds while the provisions of this chapter are in effect in such county, city, district, or township.

§ 282. Amendment.) Section 63-03-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

63-03-01. Weeds and Grasses on Highways, Streets, and Alleys—Who to Destroy—When To Be Destroyed—Compensation for Destroying.) Except in the case of highways under the jurisdiction of the state highway department, the overseer of highways in each organized or unorganized township and the street commissioner in each city within this state, at least twice in each year, shall cut or destroy, or cause to be cut or destroyed, all weeds and grasses of every name, nature, and description growing along or upon the entire width of all graded public highways or streets and alleys in his road district or city, as the case may be. Such weeds and grasses shall be cut or destroyed once between July first and July fifteenth and once between September fifteenth and October first of each year. The work required to be done by the provisions of this section shall be paid for out of the road fund of the township or city.

§ 283. **Transition of Villages to Cities.)** Upon the effective date of this Act, the village officers then in office shall assume the duties of and exercise the powers conferred upon like officers of a city operating under the council system of municipal government, until their successors are elected and qualified pursuant to chapter 40-08, or appointed pursuant to section 40-14-04.

1. The president of the board of trustees shall become the mayor;
2. The village trustees shall become the aldermen;
3. The village clerk shall become the city auditor and the village assessor shall become the city assessor, unless and until the mayor, with the approval of the city council, appoints another;
4. The village attorney and engineer shall become the city attorney and engineer, unless and until the mayor, with the approval of the city council, appoints another; and
5. The municipal judge shall continue to act in that capacity.

§ 284. **Trustees to Become Aldermen—Number of Aldermen.)** In the event that the number of trustees in any village should exceed five, the provisions of section 40-08-03, limiting the number of aldermen in council cities, shall not apply to municipalities in the above-mentioned category, until the next regularly scheduled election for municipalities having a council form of government. At such time, municipalities having such excess aldermen shall conform to the provisions of section 40-08-03.

§ 285. **Repeal.)** Section 16-10-05, subsection 3 of section 21-03-06, subsection 3 of section 21-03-21, chapter 40-03, sections 40-05-04, 40-05-07, chapter 40-07, sections 40-19-04, 40-21-04, 40-29-06, 40-49-06, 40-49-19, 40-51-13, 40-51-14, 40-51-15, 40-51-16, chapters 40-53 and 57-10, and section 57-15-09 of the North Dakota Century Code, relating to villages and their powers, duties, officers, and organization, are hereby repealed.

Approved March 15, 1967.

CHAPTER 324

H. B. No. 673
(Kelsch, Bullis, Hensrud)

POWERS OF CITIES

AN ACT

To create and enact subsections 25, 26, and 27 of section 40-05-02 of the North Dakota Century Code, relating to the powers of cities.

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

§ 1.) Subsections 25, 26, and 27 of section 40-05-02 of the North Dakota Century Code are hereby created and enacted to read as follows:

25. **Assault and Battery.** To prohibit by ordinance and prescribe the punishment for the commission of assault and battery within the jurisdiction of the city.
26. **Petit Larceny.** To prohibit by ordinance and prescribe the punishment for the commission of petit larceny as defined by section 12-40-03 of the North Dakota Century Code within the jurisdiction of the city.
27. **Peace Bonds.** To provide by ordinance for the issuance of peace bonds by the police magistrate in accordance with the procedure in chapter 29-02 of the North Dakota Century Code.

Approved February 27, 1967.

CHAPTER 325

H. B. No. 560
(Boustead, Lang)

TAX LEVY FOR FIRE DEPARTMENT STATIONS

AN ACT

To amend and reenact section 40-05-09.1 of the 1965 Supplement to the North Dakota Century Code, relating to a tax levy for fire department stations.

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

§ 1. Amendment.) Section 40-05-09.1 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

***40-05-09.1. Tax Levy for Fire Department Stations.)** Upon 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 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 stations for fire protection services. Such levy shall be in addition to and not restricted by the levy limitations prescribed by law.

Approved March 4, 1967.

***Note:** Section 40-05-09.1 was also amended by section 119 of chapter 323, 1967 S.L.

CHAPTER 326

S. B. No. 246
(Litten, Goldberg)

SALARIES OF CITY COMMISSIONERS

AN ACT

To amend and reenact section 40-09-06 of the North Dakota Century Code, relating to the salaries of city commissioners.

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

§ 1. Amendment.) Section 40-09-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-09-06. Style of Board — Oath and Salary of Commissioners.) The commissioners and president of the board collectively shall constitute and be known as the "board of city commissioners of the city of . . .", and shall take an oath faithfully to perform the duties of their respective offices. The salaries of the city commissioners shall be fixed by ordinance subject to the following limitations based upon the population of the city according to the latest state or federal census:

1. In cities not exceeding one thousand in population, each commissioner may receive a monthly salary of not to exceed fifteen dollars;
2. In cities over one thousand and not exceeding two thousand in population, each commissioner may receive a monthly salary of not to exceed twenty-five dollars;
3. In cities over two thousand and not exceeding four thousand in population, each commissioner may receive a monthly salary of not to exceed fifty dollars;
4. In cities over four thousand and not exceeding six thousand in population, each commissioner may receive a monthly salary of not to exceed seventy-five dollars;
5. In cities over six thousand and not exceeding eight thousand in population, each commissioner may receive a monthly salary of not to exceed one hundred dollars;
6. In cities over eight thousand and not exceeding twelve thousand in population, each commissioner may receive a monthly salary of not to exceed one hundred fifty dollars;

7. In cities over twelve thousand and not exceeding forty thousand, each commissioner may receive a monthly salary of not to exceed two hundred dollars;
8. In cities having a population of over forty thousand each commissioner may receive a monthly salary of not to exceed four hundred dollars.

Approved March 1, 1967.

CHAPTER 327

S. B. No. 47
(Hernett, Longmire)
(From LRC Study)

PROCEDURE IN MUNICIPAL COURT

AN ACT

To provide for an affidavit of prejudice and a change of venue in municipal courts and to amend and reenact section 40-18-03 of the 1965 Supplement to the North Dakota Century Code, relating to the vacancy in office and temporary absence of municipal judges, and to repeal section 40-18-10 of the 1965 Supplement to the North Dakota Century Code, relating to the procedure governing trials for misdemeanors before municipal judges.

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

§ 1. Affidavit of Prejudice.) When the defendant in an action in a municipal court, or his attorney, or the municipality by the municipality's attorney or any other attorney acting for the municipality, before the trial commences, files an affidavit in writing stating that he has reason to believe and does believe that a fair and impartial trial of the action cannot be had before the judge about to try the same by reason of the bias or prejudice of such judge, the judge shall be disqualified.

§ 2. Change of Venue in Municipal Court.) A municipal court, at any time before trial, on motion, may change the place of trial when there is reason to believe that an impartial trial cannot be had therein. When the court orders the place of trial to be changed, the action must be transferred for trial to a court the parties may agree upon, or if they do not so agree, then to the nearest county justice or county court of increased jurisdiction. However, the place of trial cannot be changed more than once by each party under the provisions of this section.

§ 3. Amendment.) Section 40-18-03 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-18-03. Vacancy in Office of Municipal Judge—Temporary Absence of Municipal Judge.) If a vacancy exists in the office of municipal judge 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 or village. An appointee shall qualify, and he shall hold office until the next city or village election, and until his successor is elected and qualified. During the temporary absence, interest, disqualification, or disability of the municipal judge or temporary vacancy in the office of municipal judge, any county justice designated by the executive officer shall act as municipal judge until the municipal judge is available in the trial of causes triable before the municipal judge. In any city within a county having a court of increased jurisdiction, the governing body may appoint an alternate municipal judge to serve when the municipal judge is unable to serve due to temporary absence, interest, disqualification, or disability. 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 municipal judge.

§ 4. Repeal.) Section 40-18-10 of the 1965 Supplement to the North Dakota Century Code is hereby repealed.

Approved March 14, 1967.

CHAPTER 328

S. B. No. 335
(Geving)

MUNICIPAL POLICEMEN'S UNIFORMS

AN ACT

To require municipalities to furnish uniforms to full-time policemen they employ.

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

§ 1. Municipalities to Furnish Uniforms to Policemen.) Any municipality of this state which employs full-time policemen shall furnish each such policeman with a summer-weight and a winter-weight uniform. The uniforms shall be blue in color.

Approved March 6, 1967.

CHAPTER 329

S. B. No. 166
(Kelly(24), Lowe, Larson(32), Melland)

DECORATIVE STREET LIGHTING SPECIAL ASSESSMENTS

AN ACT

To amend and reenact subsection 2 of section 40-22-01 of the 1965 Supplement to the North Dakota Century Code, relating to permitting expense of decorative street lighting to be defrayed by special assessments.

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

§ 1. Amendment.) Subsection 2 of section 40-22-01 of the 1965 Supplement to 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 and all types of decorative street lighting, including but not restricted to Christmas street lighting decorations;

Approved February 27, 1967.

CHAPTER 330

S. B. No. 143
(Butler, Goldberg)

MUNICIPAL AGREEMENTS WITH HIGHWAY DEPARTMENT

AN ACT

To amend and reenact section 40-22-06 of the 1965 Supplement to the North Dakota Century Code, relating to the certification of municipalities obtaining authority to enter into agreements with the state highway department.

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

§ 1. **Amendment.**) Section 40-22-06 of the 1965 Supplement to the North Dakota 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 entered into until and unless the governing body certifies that they have obtained 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 gov-

erning 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.

Approved February 24, 1967.

CHAPTER 331

H. B. No. 938

(Committee on Delayed Bills)

TERMINATION OF MUNICIPAL PARKING LOTS

AN ACT

To allow municipalities to discontinue municipal parking lots when a higher and better use for the property exists.

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

§ 1. Discontinuance of Municipal Parking Lots.) The governing body of a municipality may, if it deems it in the best interests of the municipality, discontinue the operation of a municipal parking lot when there exists a higher and better use for the property. If any portion of the cost of such parking lot has been paid for by special assessment, the governing body shall, prior to making any determination to discontinue, hold a public hearing concerning the continuance or discontinuance of such parking lot. The governing body shall cause to be published once each week for two consecutive weeks in the official newspaper of the municipality a notice of the time when and the place where the governing body will meet to conduct the hearing required by this section. If the governing body, after public hearing, determines that the parking lot may be put to a higher and better use, the governing body is hereby authorized to take the necessary steps to effectuate that use. For this purpose the governing body is authorized to, but not limited to, enter into and complete negotiations for the sale of the parking lot in question.

§ 2. Equalization of Original Assessment.) Whenever any portion of the cost of a parking lot which is to be discontinued has been paid for by special assessment, the useful life of the parking lot shall be determined by the governing body. If the period of time determined to be the useful life of the parking lot has not completely elapsed, the governing body of the municipality shall direct the cancellation of uncollected installments of special assessments previously levied for the same improvement, and the refund of installments paid, plus interest calculated at four and one-half percent per annum on the refunded prepaid installments, from the general fund of the municipality to the extent determined by it to be necessary to make the original assessments and the subsequent assessments bear as nearly as possible the same relation to the total benefits derived from the improvement by the respective properties assessed.

§ 3. Payment of Outstanding Warrants—Deposit of Surplus in General Fund—General Fund Liable for Any Outstanding Warrants.) Upon the discontinuance of any municipal parking lot under the authority of this Act, the governing body shall apply the proceeds from the sale of such property, if such property is sold, to the special assessment fund created to bear the cost of creating the parking lot. If there is any surplus after all of the outstanding special assessment warrants or bonds are redeemed, the surplus shall be transferred to the general fund of the municipality. If the proceeds from the sale of such property, if such property is sold, are insufficient to cover the cost of redeeming the outstanding special assessment warrants or bonds, the governing body shall provide for the payment of said warrants or bonds out of the general fund of the municipality.

Approved March 15, 1967.

CHAPTER 332

S. B. No. 49
(Hernett, Longmire)
(From LRC Study)

ALTERNATIVE METHOD OF DETERMINING SPECIAL ASSESSMENTS

AN ACT

To create and enact chapter 40-23.1 of the North Dakota Century Code, creating an alternative method of determining and allocating the costs of special assessments and to amend and reenact section 40-23-07 of the North Dakota Century Code, relating to the special assessment commission.

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

§ 1.) Chapter 40-23.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

CHAPTER 40-23.1

An Alternative Method of Determining and Allocating Special Assessments

40-23.1-01. Improvement District—All Property To Be Assessed—Basis.) All property included within the limits of a local improvement district shall be considered to be the property specially benefited by the local improvement and shall be the property to be assessed to pay the cost and expense

thereof or such part thereof as may be chargeable against the property specially benefited. The cost and expense shall be assessed upon all the property in accordance with the special benefits conferred thereon in proportion to area and distance back from the marginal line of the public way or area improved.

40-23.1-02. Improvement District—Zones.) For the purpose of ascertaining the amount to be assessed against each separate lot, tract, parcel of land or other property therein, the local improvement district shall be divided into subdivisions or zones paralleling the margin of the street, avenue, lane, alley, boulevard, park drive, parkway, public place, or public square to be improved, numbered respectively first, second, third, fourth, and fifth.

The first subdivision shall include all lands within the district lying between the street margins and lines drawn parallel therewith and thirty feet therefrom.

The second subdivision shall include all lands within the district lying between lines drawn parallel with and thirty and sixty feet respectively from the street margins.

The third subdivision shall include all lands within the district lying between lines drawn parallel with and sixty and ninety feet respectively from the street margins.

The fourth subdivision shall include all lands, if any, within the district lying between lines drawn parallel with and ninety and one hundred twenty feet respectively from the street margins.

The fifth subdivision shall include all lands, if any, within the district lying between a line drawn parallel with and one hundred twenty feet from the street margin and the outer limit of the improvement district.

40-23.1-03. Assessment Rate Per Square Foot.) The rate of assessment per square foot in each subdivision of an improvement district shall be fixed on the basis that the special benefits conferred on a square foot of land in subdivisions first, second, third, fourth, and fifth, respectively, are related to each other as are the numbers forty-five, twenty-five, twenty, ten, and five, respectively, and shall be ascertained in the following manner:

1. The products of the number of square feet in subdivisions first, second, third, fourth, and fifth, respectively, and the numbers forty-five, twenty-five, twenty, ten, and five, respectively, shall be ascertained;

2. The aggregate sum thereof shall be divided into the total cost and expense of the improvement;

3. The resultant quotient multiplied by forty-five, twenty-five, twenty, ten, and five, respectively, shall be the respective rate of assessment per square foot for subdivisions first, second, third, fourth, and fifth; provided, that in lieu of the above formula the rate of assessment per square foot in each subdivision of an improvement district may be fixed on the basis that the special benefits conferred on a square foot of land in subdivisions first, second, third, fourth, and fifth, respectively, are related to each other as the numbers 0.015000, 0.008333, 0.006666, 0.003333, and 0.001666, respectively; and the method of determining the assessment on each lot, tract, or parcel of land in the improvement district may be ascertained in the following manner:

a. The products of the number of square feet in subdivisions first, second, third, fourth, and fifth, respectively, for each lot, tract, or parcel of land in the improvement district and the numbers 0.015000, 0.008333, 0.006666, 0.003333, and 0.001666, respectively, shall be ascertained. The sum of all such products for each such lot, tract, or parcel of land shall be the number of "assessable units of frontage" therein;

b. The rate for each assessable unit of frontage shall be determined by dividing that portion of the total cost of the improvement representing special benefits by the aggregate sum of all assessable units of frontage;

c. The assessment for each lot, tract, or parcel of land in the improvement district shall be the product of the assessable units of frontage therefor, multiplied by the rate per assessable unit of frontage.

40-23.1-04. Levy of Assessments—Items Included in Cost of Improvement.) At any time after the contract and bond for any work for which a special assessment is required have been executed and approved by the governing body of the municipality and the total cost of such work shall have been estimated as nearly as practicable, the governing body may direct assessments to be levied for the payment of all or any part of such cost, and the city auditor shall ascertain and return, as provided in this chapter, the total assessment against each separate lot, tract, or parcel of land in the improvement district. The total cost of the improvement shall include the estimated construction cost under the terms of the contract, a reasonable allowance as determined by the governing body for cost of extra work which may be authorized under the plans and specifications, engineering, fiscal agents', and attorneys' fees for any services in connection with the authorization and

financing of the improvement, cost of publication of required notices and printing of improvement warrants, and all expenses incurred in the making of the improvement and levy of assessment therefor. In the event that any error is made in estimating the cost, the governing body may direct a supplemental assessment to be made as provided in section 40-26-02.

40-23.1-05. Parking Lots—Ascertaining Assessments.) Notwithstanding any section of chapter 40-23, the city auditor shall determine, on the basis that the special benefit conferred upon a lot, tract, or parcel of land in the improvement district, by the establishment of a parking lot, is proportionate to the need that the business conducted thereon has for a parking lot, the amount which each lot, tract, or parcel of land will be especially benefited by the construction of the work for which such special assessment is to be made, and shall assess against each lot, tract, or parcel of land such sum, not exceeding the benefits, as shall be necessary to pay its just proportion of the total cost of such work, or of the part thereof which is to be paid by special assessment, including all expenses incurred in making such assessment and publishing necessary notices with reference thereto. Such action shall be subject to the final approval of the governing body which may increase or diminish any of such assessments as it may deem just.

40-23.1-06. Political Subdivisions Not Exempt from Special Assessments.) Benefited property belonging to counties, cities, school districts, park districts, and townships, shall not be exempt from assessment, and such public corporations whose property is assessed shall provide for the payment of such assessments, installments thereof and interest thereon, by the levy of taxes according to law. Nothing in this section shall be deemed to amend other provisions of law with reference to the levy of assessments on property sold for delinquent taxes.

40-23.1-07. Assessment List To Be Prepared—Contents—Certificate Attached To Assessment List.) The city auditor shall make or cause to be made a complete list of the benefits and assessments setting forth each lot, tract, or parcel benefited by the improvement, and the amount assessed against each. There shall be attached to the list of assessments a certificate signed by the city auditor certifying that the same is a true and correct assessment of the property therein described to the best of just judgment, and stating the several items of expense included in the assessment.

40-23.1-08. Publication of Assessment List and Notice of Hearing of Objections To List.) The city auditor shall cause the assessment list, which list shall not include the amount each lot, tract, or parcel is benefited by the improvement, to be

published once each week for two consecutive weeks in the official newspaper of the municipality, together with a notice of the time when and the place where the city auditor will meet to hear objections made to any assessment by any interested party, his agent, or attorney; provided that in lieu of publication of an assessment list, if it includes more than five thousand lots, tracts, or parcels, the city auditor may cause it to be filed and made available for public inspection at all times after the first publication of the notice, during reasonable business hours, at such place as shall be designated in the published notice. The date set for such hearing shall be not less than fifteen days after the first publication of the notice.

40-23.1-09. Alteration of Assessments at Hearing—Limitations.) At the hearing, the city auditor may make such alterations in the assessments as in his opinion may be just or necessary to correct any error in the assessment list. The city auditor may increase or diminish any assessment as may be just and necessary to make the aggregate of all assessments equal to the total amount required to pay the entire cost of the work for which such assessments are made, or the part of such cost to be paid by special assessment. No assessment shall exceed the benefits to the parcel of land assessed.

40-23.1-10. Confirmation of Assessment List After Hearing—Filing List.) The city auditor, after the hearing, shall confirm the list and attach thereto its further certificate certifying that the list is correct as confirmed. The city auditor thereafter shall file the assessment list in his office.

40-23.1-11. Publication of Notice of Confirmation of Assessment List and Meeting for Action Upon Assessments.) The city auditor shall publish at least once in the official newspaper of the municipality a notice stating that the assessment list has been confirmed by him and filed in his office and is open to public inspection. The notice also shall state the time when and the place where the governing body will act upon such assessment list. The assessment list shall be acted upon by the governing body at a regular or special meeting occurring more than fifteen days after the publication of such notice.

40-23.1-12. Aggrieved Person May File Notice of Appeal.) Prior to the meeting at which the governing body will act upon the assessment, any aggrieved person may appeal from the action of the city auditor by filing with the city auditor a written notice of the appeal, stating therein the grounds upon which the appeal is based.

40-23.1-13. Governing Body to Hear and Determine Appeals and Objections to Assessments—Altering Assessments—Limitations.) At the regular meeting of the governing body at which the assessment list is to be acted upon, any person

aggrieved by the determination of the city auditor, in regard to any assessment who was appealed therefrom as provided in section 40-23-14 may appear before the governing body and present his reasons why the action of the city auditor should not be confirmed. The governing body shall hear and determine the appeals and objections and may increase or diminish any of such assessments as if may deem just, in the event that the formula provided for in sections 40-23.1-02 and 40-23.1-03 proves to be inapplicable. The governing body may increase or diminish any assessment as may be just and necessary to make the aggregate of all assessments equal to the total amount required to pay the entire cost of the work for which such assessments are made, or the part of such cost to be paid by special assessment. No assessment shall exceed the benefits as determined, in accordance with this chapter by the city auditor, to the parcel of land assessed.

§ 2. **Amendment.)** Section 40-23-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

***40-23-07. Regulations Governing Determination of Special Assessments by Commission—Political Subdivisions Not Exempt.)** Whenever the commission is required to make any special assessment under the provisions of this title, the members thereof personally shall inspect any and all lots and parcels of land which may be subject to such special assessment and shall determine from such inspection the particular lots and parcels of land which, in the opinion of the commission, will be especially benefited by the construction of the work for which the assessment is to be made. The commission shall determine the amount in which each of the lots and parcels of land will be especially benefited by the construction of the work for which such special assessment is to be made, and shall assess against each of such lots and parcels of land such sum, not exceeding the benefits, as shall be necessary to pay its just proportion of the total cost of such work, or of the part thereof which is to be paid by special assessment, including all expenses incurred in making such assessment and publishing necessary notices with reference thereto and the per diem of the commission. However, as an alternative to the procedure heretofore provided in this section, the special assessment commission may, in its discretion, determine and allocate the cost of special assessments in accordance with the method provided for in chapter 40-23.1. Benefited property belonging to counties, cities, villages, school districts, park districts, and townships, shall not be exempt from such assessment, and such public

***Note:** Section 155 of chapter 323, 1967 S.L., also amends section 40-23-07.

corporations whose property is so assessed shall provide for the payment of such assessments, installments thereof and interest thereon, by the levy of taxes according to law. Nothing in this section shall be deemed to amend other provisions of law with reference to the levy of assessments on property sold for delinquent taxes.

Approved February 22, 1967.

CHAPTER 333

S. B. No. 341
(Forkner, Nething)

TIME LIMITATIONS FOR SEWER AND WATER SPECIAL ASSESSMENTS

AN ACT

To amend and reenact section 40-24-04 and 40-24-05 of the North Dakota Century Code, relating to the length of time for which special assessment warrants for sewer and water may extend.

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

§ 1. **Amendment.)** Section 40-24-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-24-04. Sewer Special Assessments Extended Over a Period of Not More Than Thirty Years.) Special assessments for the payment of the cost of constructing any sewer shall be payable in equal annual amounts extending over a period of not exceeding thirty years as the governing body may fix by ordinance or resolution.

§ 2. **Amendment.)** Section 40-24-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-24-05. Water Main and Waterworks Special Assessments Extended Over a Period of Not More Than Thirty Years.) Special assessments for the payment of the cost of constructing or laying any water mains or constructing any waterworks shall be payable in equal annual amounts extending over a period of not more than thirty years as the governing body may fix by ordinance or resolution.

Approved March 1, 1967.

CHAPTER 334

H. B. No. 911
(Leibhan, Strinden)

CERTIFICATION OF SPECIAL ASSESSMENTS

AN ACT

To amend and reenact sections 40-24-11 and 40-24-12 of the 1965 Supplement to the North Dakota Century Code, relating to the regulations in certifying special assessments and furnishing statements thereof.

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

§ 1. **Amendment.)** Section 40-24-11 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

***40-24-11. Certification of Assessments to County Auditor.)** Annually, the city auditor shall certify to the county auditor all uncertified installments of assessments which are to be extended upon the tax lists of the municipality for the current year, in the manner provided in section 40-24-12.

***Note:** Section 40-24-11 was also amended by section 161 of chapter 323, 1967 S.L.

§ 2. **Amendment.)** Section 40-24-12 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

***40-24-12. City Auditor to Insert Amount of Improvements in County Real Estate Book or Other Forms — Regulations Governing.)** The city auditor shall notify the county auditor not later than August twentieth in each year of any special assessments which were made in the municipality in addition to those reported in the previous year. The county auditor shall make and deliver to the city auditor on or before September twentieth each year, a copy of the real estate assessment book or other forms for the current year covering all additions in which any special assessments have existed and where any will appear for the current year as advised by the city auditor. The city auditor shall insert in the proper columns under the appropriate headings the amount of each of the installments of the assessments on the lots or subdivisions of lots or tracts of land which are to be extended upon the tax lists of the municipality for the current year. The city auditor shall show

***Note:** Section 40-24-12 was also amended by section 162 of chapter 323, 1967 S.L.

the total amount of special assessments certified to the county auditor for the current year. In cases where a division of property has been made since the original assessment, the city auditor shall make or cause to be made, with the assistance and advice of the special assessment commission, the proper division of the special assessments on the lots or tracts of land as the same are divided and assessed for the general taxes as furnished by the county auditor. The city auditor shall certify the special assessments to the county auditor by November first of each year.

Approved March 10, 1967.

CHAPTER 335

H. B. No. 840
(Aamoth, Unruh)

COUNTY TREASURER CERTIFICATION OF TAXES

AN ACT

To amend and reenact section 40-24-16 of the 1965 Supplement to the North Dakota Century Code, relating to the certification and payment of taxes collected by the county treasurer.

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

§ 1. Amendment.) Section 40-24-16 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

***40-24-16. County Treasurer to Certify and Receipt for Amount of Special Assessments Collected—Contents of Certificate—Procedure for Abatement.)** Special assessments of any kind certified to the county auditor by the city auditor shall be paid to the county treasurer and included in the receipt required by section 57-20-08. In the event that the county treasurer receives less than the full amount of taxes and special assessments due at any time on any lot or tract of real estate, he shall allocate the amount of such payment between taxes and special assessments in proportion to the respective amounts of taxes and special assessments which are then due. When prorating any tax payment received prior to October 15, the term "due", as it pertains to real estate taxes, shall include only the first installment of real estate taxes. Special assessments shall not be subject to abatement

***Note:** Section 40-24-16 was also amended by section 164 of chapter 323, 1967 S.L.

or refund by proceedings under chapter 57-23, but shall be reviewed and corrected only in the manner and upon the conditions provided in chapter 40-26. The county treasurer, at the time set by law for the payment to the municipal treasurer of all the taxes and special assessments collected by him during the preceding month, shall certify in duplicate the amounts of special assessments collected. The certificate shall state specifically the lot or known subdivision thereof as it appears on the tax books of the county treasurer, and the block, addition, amount collected, and the amount credited to each lot or known subdivision thereof, and the year for which the sum was collected. One copy of such certificate shall be furnished to the municipal treasurer and one copy to the city auditor.

Approved March 3, 1967.

CHAPTER 336

H. B. No. 694
(Bunker, Eagles)

MEMBERSHIP FEES FOR MUNICIPAL POLICE PENSION FUNDS

AN ACT

To amend and reenact section 40-45-08 of the North Dakota Century Code, relating to membership fees and assessments in police pension funds in cities.

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

§ 1. Amendment.) Section 40-45-08 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-45-08. Membership Fees and Assessments.) Every member of the police department 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 twenty-five dollars. Each member shall be assessed and required to pay annually an amount not less than three percent or more than five percent per annum as determined by the governing body of the municipality upon the amount of the annual salary paid to him. Such assessment shall be deducted and retained in equal monthly installments out of such salary. Assessments shall be made of all members for a minimum period of twenty-two years and for such additional years as may be determined by the governing body.

Approved February 28, 1967.

CHAPTER 337

S. B. No. 150
(Meschke, Lips)

CITY EMPLOYEES' PENSION FUND REFUND

AN ACT

To amend and reenact section 40-46-20 of the 1965 Supplement to the North Dakota Century Code, relating to refund or partial retirement upon termination of employment with city.

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

§ 1. Amendment.) Section 40-46-20 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-46-20. Employee Entitled to Refund from Fund or Partial Retirement 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. Any employee who shall have served one hundred eighty months or more, but less than two hundred forty months, and who 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 to elect retirement instead of refund, but at a pension equal to the proportion of a full pension as herein provided which the total number of months employed by the city bears to two hundred forty months, but no pension shall be paid while he lives until he reaches the age of sixty years.

Approved February 24, 1967.

CHAPTER 338

H. B. No. 722

(Hoghaug, Bernabucci, Strinden)

ANNEXATION AND EXCLUSION OF TERRITORY

AN ACT

Providing for the annexation and exclusion of unincorporated areas by municipal corporations, and repealing chapter 40-51 of the North Dakota Century Code.

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

§ 1. Authority to Annex.) Any portion of a county not incorporated as a part of a municipal corporation but lying contiguous thereto may become a part thereof by annexation as herein provided. Any part of the area of a municipal corporation may be excluded as provided herein.

§ 2. Annexation by Petition of Owners and Electors.) Upon a written petition signed by not less than three-fourths of the qualified electors and by the owners of not less than three-fourths in assessed value of the property in any territory contiguous to any incorporated municipality and not embraced within the limits thereof, the governing body of the municipality, by ordinance, may annex such territory to the municipality.

§ 3. Exclusion by Petition of Owners and Electors.) Upon a petition signed by not less than three-fourths of the qualified electors and by the owners of not less than three-fourths in assessed value of the property in any territory within the limits of an incorporated municipality and bordering upon such limits, the governing body of the municipality, by ordinance, may disconnect and exclude such territory from the municipality. The provisions of this section, however, shall apply only to lands which have not been platted under the provisions of either section 40-50 or section 57-02-39.

§ 4. Notice—Petition of Owners and Electors.) The governing body shall not take final action on a petition presented by owners and electors until the petitioners have given notice of presentation of their petition by one publication in the official newspaper of the municipality, and if none, in the official newspaper of the county.

§ 5. Petition of Owners and Electors—Annexation or Exclusion.) If the governing body determines to annex said area it shall do so by ordinance, a copy of which with an accurate

map of the annexed area, certified by the executive officer of the municipality, shall be filed and recorded with the county register of deeds.

If the governing body determines to exclude the area petitioned for, it may do so by ordinance adopted and recorded as in case of annexation. If the governing body finds the area sought to be excluded is within the corporate limits of the municipality and borders thereon, and that it is unplatted, under the provisions of either section 40-50 or section 57-02-39, and that no municipal improvements have been made or constructed therein or adjacent thereto, it shall be the duty of the governing body of the municipality to disconnect and exclude such territory from the municipality.

After the hearing on a petition to disconnect and exclude territory from a municipality, the governing body shall make findings of fact upon which its decision is made. If the territory described in the petition is disconnected or excluded from the municipality, a copy of the ordinance providing therefor shall be filed and recorded in the office of the register of deeds at the expense of the petitioners.

§ 6. Annexation by Resolution of Municipal Corporation.)

The governing body of any municipality may adopt a resolution to annex adjacent territory as follows:

1. The city governing board shall adopt a resolution describing the property adjacent to the city to be annexed; and
2. Shall publish said resolution once a week for two successive weeks in the official newspaper of the city; and
3. In the absence of protests filed by more than one-fourth of the property owners as of the date of the adoption of the resolution by number within the area proposed to be annexed, the territory described in the resolution shall be included within and shall become a part of the city, and a copy of the resolution with an accurate map of the annexed area, certified by the executive officer of the municipality, shall be filed and recorded with the county register of deeds.

If one-fourth or more property owners protest, the city may seek annexation by petition to the district court as hereinafter provided.

§ 7. Annexation by Petition of Municipal Corporation.)

The governing body of any municipal corporation may petition the district court of the county in which any territory adjacent to it lies for its annexation. The petition shall set forth an

accurate map of the area sought to be annexed, its description, and the reasons for its annexation.

§ 8. Notice — Petition of Municipal Corporation.) In any annexation proceedings instituted by its petition in court the municipal corporation shall give notice to the chairman of the governing body of the county and township if organized wherein such territory lies, that it will on a given day not less than thirty days thereafter, move the district court of the county wherein such territory lies or the judges designated to hear the case, to grant the annexation requested in its petition, with which notice shall be served a copy of its petition. A copy of the notice shall be published at least once a week for two successive weeks in the official newspaper published in such municipal corporation and when there is no newspaper published therein, then in the official newspaper of the county. The notice shall be returned after service to the clerk of the district court and when the publication is complete, with proof of publication, the case shall be docketed for hearing.

§ 9. Additional Parties—Petition of Municipal Corporation.) In any proceedings hereunder, any qualified voter or freeholder in the territory proposed to be annexed or any adjoining municipal corporation may at his written election become a party to such proceedings. Any county whose territory is affected by the proceedings or any organized township may appear and shall be made parties defendant to the case and may be represented by counsel.

§ 10. Constitution of Court—Petition of Municipal Corporations.) The court without a jury shall be held by three judges as follows:

1. The judge of the district court of the county in which the territory sought to be annexed lies or any judge designated as provided by law to sit in his stead who is hereafter designated as the "local judge" and two judges of the district court from other districts to be designated by the chief justice of the supreme court for such purpose; provided, however, that if the local judge disqualifies himself, three judges of the district court from other districts of such territory shall be designated to hold such court; provided that when the governing body of the municipal corporation and the county or the organized township, by ordinance or resolution declares that the necessity for and expedience of the annexation of the territory exists and that such annexation should be decreed and with the consent of all interveners in such proceedings, such court may be composed of the local judge only.

§ 11. Hearing and Decision—Petition by Municipal Corporation.) 1. The court shall hear the case upon the evidence introduced. The court may admit and consider all studies, surveys, maps, and data that is material to the area prepared or obtained by any official state or local subdivision planning or zoning commissions in the performance of their functions.

2. The court shall determine if the annexation should be granted considering the present and future uses and development of the area sought to be annexed and its relationship to the municipal corporation seeking annexation, the governmental services available and needed and the ability to furnish them, and the relationship of the area sought to be annexed economically, physically and socially with the purpose of promoting the health, safety, and general welfare of the inhabitants of the area, the municipal corporation and other school districts and political subdivisions affected thereby. If a majority of the court is satisfied that the annexation should be granted, it shall determine the terms and conditions upon which annexation is to be had and shall enter an order granting the petition. In all contested cases, the court shall write a written opinion.

3. The order granting the petition shall set forth in detail all such terms and conditions upon which the petition is granted and the effective date thereof. Such order with an accurate map of the annexed area, certified by the executive officer of the municipality, shall be filed and recorded with the county register of deeds.

§ 12. Powers of Court — Decision — Terms — Petition by Municipal Corporation.) The court in making its decision, shall balance the equities in the case and shall enter an order setting forth what it deems fair and reasonable terms and conditions and shall direct the annexation in conformity therewith. It shall have power:

1. To determine the metes and bounds of the territory to be annexed and may include the same area or a smaller area than that described in the petition. The court shall so draw the lines of annexation as to have a reasonably compact body of land and so that no land shall be taken into the city which is not adapted to improvements or which the city will not need in the reasonably near future for development unless necessarily embraced in such compact body of land;
2. To require payment by the city of a sum to be determined by the court payable when the court so provides, to compensate for the value of public improvements acquired by the annexation proceedings and assumption

of the pro rata share of any existing bonded indebtedness existing within the past five years of any township or county from which territory is annexed.

§ 13. Costs of Annexation—Petition by Municipal Corporation.) The costs of annexation proceedings shall be paid by the municipal corporation instituting the proceedings and shall be the same as in other civil cases.

§ 14. Appeal.) An appeal may be taken to the supreme court as in other matters tried to the court and without a jury.

§ 15. Exclusion—By Municipal Ordinance.) Whenever it is deemed desirable to reduce the corporate limits of any municipal corporation, the governing body thereof may enact an ordinance defining accurately the boundary of the territory proposed to be stricken off. Such ordinance shall thereupon be published in at least two successive issues of the official paper published in the county. A copy of such ordinance shall be served by such municipal corporation upon the chairman of the board of supervisors of the organized township and chairman of the county commissioners of the contiguous township or county of which said territory may become a part.

§ 16. Exclusion—Court Order Necessary to Approve Municipal Ordinance.) Thirty days after the enactment of an ordinance proposing to reduce the corporate limits of a municipal corporation, the municipal corporation shall apply to the district court for an order approving the ordinance. One or more residents or freeholders of the territory proposed to be stricken off or in the county or officers of an organized township contiguous thereto, may appear and by petition set forth the reasons why the corporate limits should not be reduced.

§ 17. Exclusion—Power of Court.) If the court or judge shall be satisfied that less than a majority of the freeholders of that territory to be stricken off oppose the contraction proposed and that no substantial injury to persons owning real estate in the territory proposed to be stricken off or to the county or organized township of which it will become a part, will be caused thereby, but that the striking off of such territory will be for the interest of the municipal corporation, the court or judge as the case may be shall render an order approving and confirming the ordinance contracting the limits of the municipal corporation and declaring a territory so stricken off to be a part of some contiguous organized township or county designated in the order. Such contraction shall thereupon become final and be taken cognizance of by all public officers and the territory so stricken off shall become a part

of the county so designated or organized township as the case may be. Such order and ordinance shall be recorded with the register of deeds of the county in which such area is located.

§ 18. Repeal.) Chapter 40-51 of the North Dakota Century Code is hereby repealed.

Approved March 15, 1967.

CHAPTER 339

H. B. No. 723

(Aafedt, Wagner, Strinden, Peterson(5), Williamson)

PUBLIC RECREATION TAX LEVY

AN ACT

To amend and reenact section 40-55-09 of the North Dakota Century Code, relating to the tax levy limitation for a public recreation system.

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

§ 1. Amendment.) Section 40-55-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-55-09. Favorable Vote at Election — Procedure.) Upon the adoption of such a proposition at an election by a majority of the votes cast upon such proposition, the governing body of such municipality, school district, or park district, by resolution or ordinance, shall provide for the establishment, maintenance, conduct of a public recreation system, and thereafter levy and collect annually a tax of not more than two and five-tenths mills, or not more than three and five-tenths mills if the same is authorized as herein provided, on each dollar of all taxable property within the corporate limits or boundaries of such municipality, school district, or park district, such tax to be in addition to the maximum of taxes permitted to be levied in such municipality, school district, or park district. The mill levy herein authorized may be raised to not more than three and five-tenths mills when such increase is approved by the citizens of the municipality, school district, or park district after the submission of such question in the same manner as provided in section 40-55-08 for the establishment of the public recreation system. The governing body of such municipality, school district, or park district, shall continue to levy such tax annually for public recreation purposes until such time as the

qualified voters, at a regular or special election, by a majority vote on the proposition, decide to discontinue the levy. The governing body of such municipality, school district, or park district, in its discretion, may appropriate additional funds for the operation of the public recreation system if in the opinion of the governing body additional funds are needed for the efficient operation thereof. Nothing in this section of this chapter shall be construed to limit the power of any municipality, school district, or park district to appropriate on its own initiative general municipal, school district, or park district tax funds for the operation of a public recreation system, a community center or character building facility.

Approved March 14, 1967.

CHAPTER 340

H. B. No. 562
(Dornacker, Jenkins)

SALE OF MUNICIPAL REVENUE BONDS

AN ACT

To amend and reenact section 40-57-09 of the North Dakota Century Code, and section 40-57-10 of the 1965 Supplement to the North Dakota Century Code, relating to the sale of revenue bonds, and declaring an emergency.

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

§ 1. Amendment.) Subsection 1 of section 40-57-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. The maximum rate or rates of interest which such bonds shall bear;

§ 2. Amendment.) Section 40-57-10 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-57-10. Sale of Revenue Bonds.) Revenue bonds shall be sold at not less than ninety-five percent of par plus any accrued interest. Such bonds may be sold at private sale, or such bonds may be sold at public sale after notice of such sale has been published once at least five days prior to such sale in a newspaper circulating in the municipality, and in at least two financial newspapers published in Chicago, Illinois, in New York, New York, in Minneapolis, Minnesota, or in San Fran-

cisco, California. Banks chartered in this state may purchase the revenue bonds issued under the provisions of this chapter in an amount not to exceed five percent of their capital.

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

Approved March 3, 1967.

CHAPTER 341

S. B. No. 173

(Lips, Longmire, Litten)

PROMOTION AND ACQUISITION OF MUNICIPAL PARKING FACILITIES

AN ACT

Relating to the provision of off-street parking facilities by municipal action and by cooperation with public and private persons, firms and corporations; authorizing municipal and cooperative acquisition, construction, improvement, development, extension, financing, operation, maintenance and leasing of such facilities, and of usable commercial space above and below the same and adjacent thereto, and declaring an emergency.

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

§ 1.) To alleviate traffic congestion in municipalities, prevent the development of blight, and implement orderly plans for urban development and urban renewal, it is necessary that adequate and suitable space be reserved, particularly in central business areas, for parking facilities; which phrase is defined to include, but without limitation, all off-street lots, sites, parking meters and other control devices, garages, ramps and other structures and accessories, both above and below ground, which are used or useful for the parking, delivery, fueling and servicing of automobiles and other motor vehicles, the collection of charges therefor, and the convenience of the patrons of the facilities. The withdrawal of a disproportionate amount of land for this purpose from use for commercial development and from the tax base of municipalities is undesirable and can be avoided, when the growth of business areas makes it economically feasible, by the construction of multi-level parking ramps and garages, and by making the space above, below or adjacent thereto available for commercial development and use. It is the policy and purpose of the state to authorize and encourage municipal action, and cooperation of municipalities with public

and private persons, firms and corporations, in the acquisition, construction, improvement, development, extension, financing, operation, maintenance and leasing of parking facilities, and of commercially usable space therein and adjacent thereto for the purposes and by the methods described in section 2.

§ 2.) Any municipality is authorized:

1. To acquire, construct, improve, develop and extend parking facilities;
2. To provide funds for this purpose by the budgeting of current funds, the levy of taxes or special assessments, or the issuance of bonds or other obligations, or by any combination of these means, pursuant to and in accordance with the provisions of North Dakota Century Code, chapters 21-03, 40-22 to 40-27, 40-35, 40-40, 40-41 and 40-57, and of all other applicable laws now in force or hereafter enacted;
3. To devote to this purpose any land, buildings, structures or equipment which may be owned by the municipality, and are determined by its governing body to be useful therefor and not required for another municipal purpose, and whose use for this purpose is not restricted by the terms of any conveyance or judgment by which such properties were acquired;
4. To operate and maintain parking facilities and establish and collect rates, charges and rentals for the use thereof by all public and private persons, firms and corporations;
5. To lease parking facilities, and any part thereof, to any public or private person, firm or corporation, upon such terms as the governing body may determine; provided that:
 - a. No lease may be executed for a longer term, or shall be subject to extension at the option of the lessee for an additional term or terms, exceeding the maximum period prescribed by North Dakota Century Code, section 47-16-02;
 - b. Every lease shall provide that title to all real property, buildings, and improvements on real property or in buildings subject to the lease, whether or not previously owned or acquired, constructed or financed by the municipality, and title to all other real and personal property subject to the lease which was previously owned or is acquired, constructed or financed by the municipality, shall be and remain in the municipality;

- c. If the entire site of any parking facilities and all improvements constructed thereon are leased, the lease shall specify the amount of space to be operated and maintained exclusively for public parking of motor vehicles, and the area of such space shall be not less than two times the area of the space, if any, to be made available within the facilities for commercial use;
- d. Any lease may permit the sublease of part or all of the facilities, but the minimum parking space specified in accordance with subsection c shall be used or subleased solely for public parking, and all other space in the facilities shall be used or subleased solely for commercial or industrial use furthering the policies and purposes declared in North Dakota Century Code, chapter 40-57, and may be so used notwithstanding any provisions of that chapter precluding the use of previously owned municipal property or of municipally operated property for the projects therein authorized;
- e. If under the terms of the lease the lessee is to construct and finance part or all of the parking facilities to be provided at the leased site, the lease may permit the lessee's interest therein to be mortgaged to secure the repayment of money borrowed by the lessee for this purpose, upon reasonable terms approved by the governing body of the lessor, and may allow the mortgagee a reasonable time to cure any default in the payment of rentals and the performance of covenants under the lease, prior to the termination thereof by the lessor;
- f. Every lease or part or all of the facilities at a particular site shall provide for the payment by the lessee of all costs of the operation and maintenance of the leased property including, but without limitation, all taxes and special assessments validly levied on the premises or leasehold, adequate insurance against loss of or damage to the leased property and loss or damage to other persons or property from any and all operations conducted thereon, and for payment by the lessee of net annual rentals at least sufficient to pay all principal and interest becoming due during the lease term on any amount of bonds issued by the municipality to pay capital costs of the leased property, and at least sufficient to reimburse the municipality for any other expenditure made by it to pay such capital costs, in annual amounts such that, if con-

tinued uniformly over the useful life of the facilities, the total amount of such investment would be repaid in full with interest at five percent per annum on the balance thereof from time to time remaining unpaid; and

- g. The leasehold created by any such lease is classified as personal property, and any such portion of such premises not used solely for public parking of motor vehicles shall be subject to taxation.

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

Approved March 6, 1967.

CHAPTER 342

H. B. No. 752
(Aamoth)

MUNICIPAL PARKING AUTHORITY ACT

AN ACT

To provide for municipal parking authorities.

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

§ 1. **Title.)** This Act shall be known as the "Municipal Parking Authority Act".

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

1. "Authority" shall mean any corporation created under the authority of this Act;
2. "City" shall mean any city over forty thousand population according to the latest population census with a municipal parking authority;
3. "Bonds" shall mean the bonds authorized in this chapter;
4. "Board" shall mean the members of the authority;
5. "Real property" shall mean lands, structures, franchises, and interest in lands, and any and all things usually included within the said term, and includes not only fees simple absolute but also any and all lesser interests, such

as easements, rights-of-way, uses, leases, licenses, and all other incorporeal hereditaments and every estate, interest or right, legal or equitable, including terms of years;

6. "Project" shall mean any area or place operated or to be operated by an authority for the parking or storing of motor and other vehicles and shall, without limiting the foregoing, include all real and personal property, drive-ways, roads, approaches, structures, terminals of all kinds, garages, meters, mechanical equipment, and all appurtenances and facilities either on, above, or under the ground which are used and usable in connection with such parking or storing of such vehicles in the area of the city;
7. "Projects" shall mean more than one project.

§ 3. **Municipal Parking Authorities.**) Any city may create a board to be known as a "municipal parking authority". Such board shall be a body corporate, constituting a public benefit corporation, and its existence shall commence upon the appointment of the members as herein provided. It shall consist of a chairman and four other members, who shall be appointed by the governing body of the city. Three members of the board shall be property owners within the benefited areas and two members of the board shall be contributors to the debt guarantee fund hereinafter provided for. For the purpose of this section, a property owner shall be either a real estate owner, the beneficial owner of a leasehold on a building constructed on railroad property, or the owner of a retail or wholesale personal property inventory subject to an annual tax in excess of one thousand dollars. Of the members first appointed, one shall be appointed for a period of one year, one for a period of two years, one for a period of three years, one for a period of four years, and one for a period of five years. At the expiration of such terms, the terms of office of their successors shall be five years. Each member shall continue to serve until the appointment and qualification of his successor. Vacancies in such board occurring otherwise than by the expiration of term shall be filled for the unexpired term. The members of the board shall choose from their number a vice chairman. The governing body of the city may remove any member of the board for inefficiency, neglect of duty, or misconduct in office, giving him a copy of the charges against him and an opportunity of being heard in person, or by counsel, in his defense upon not less than ten days' notice. The members of the board shall be entitled to no compensation for their services but shall be entitled to reimbursement for their actual and necessary expenses incurred in the performance of their official duties.

The powers of the authority shall be vested in and exercised by a majority of the members of the board then in office. Such board may delegate to one or more of its members or to its officers, agents, and employees such powers and duties as it may deem proper. Such board and the corporate existence of the authority shall continue until all its liabilities have been met and its bonds have been paid in full or such liabilities or bonds have otherwise been discharged. Upon its ceasing to exist, all its rights and properties shall pass to the city.

§ 4. Purpose and Powers of an Authority.) The purpose of an authority shall be to construct, operate, and maintain one or more projects in the city. To carry out said purpose, an authority shall have power:

1. To sue and be sued;
2. To have a seal and alter the same at pleasure;
3. To acquire, hold, and dispose of personal property for its corporate purposes, including the power to purchase prospective or tentative awards in connection with the condemnation of real property;
4. To acquire in the name of the city by purchase or condemnation, and use necessary real property. All real property acquired by the authority by condemnation shall be acquired in the manner provided in the condemnation law or in the manner provided by law for the condemnation of land by a city;
5. To make bylaws for the management and regulation of its affairs, and, subject to agreements with bondholders, for the regulation of the project;
6. To appoint officers, agents, and employees, to prescribe their qualifications, and to fix their compensation; provided, however, the officers, agents and employees shall not be subject to the civil service law;
7. To appoint an attorney, who may be the city attorney, and to fix his compensation;
8. To make contracts and leases, and to execute all instruments necessary or convenient;
9. To construct such buildings, structures, and facilities as may be necessary;
10. To reconstruct, improve, maintain, and operate the projects;
11. To accept grants, loans, or contributions from the United States, the state of North Dakota, or any agency or instrument-

ality of either of them, or the city, or an individual, by bequest or otherwise, and to expend the proceeds for any purposes of the authority;

12. To fix and collect rentals, fees, and other charges for the use of the projects or any of them, subject to and in accordance with such agreements with bondholders as may be made as hereinafter provided;

13. To construct, operate, or maintain in the projects all facilities necessary or convenient in connection therewith; and to contract for the construction, operation, or maintenance of any parts thereof or for services to be performed; to rent parts thereof, and grant concessions, all on such terms and conditions as it may determine; provided, however, that neither the authority, the city, or any agency of an authority or city, or any other person, firm, or corporation shall, within or on any property comprising a part of any project authorized by this chapter, sell, dispense, or otherwise handle any product used in or for the servicing of any motor vehicle using any project or facility authorized by this chapter; provided further, that the location of sites of the projects shall be subject to the prior approval of the governing body of the city.

§ 5. Officers and Employees.) Municipal parking authorities shall not be subject to civil service or merit system laws, veterans preference laws, or other laws, ordinances, and regulations pertaining to the status of municipal employees. Employees of a municipal parking authority shall have the same position as employees of a private corporation and the board of directors of a municipal parking authority shall manage their employee relationships in the same manner as private corporations.

§ 6. Conveyance of Property by a City to an Authority—Acquisition of Property by a City or by an Authority.) 1. A city may, by resolution or resolutions of the governing body or by instruments authorized by such resolutions convey, with or without consideration, to an authority real and personal property owned by the city for use by an authority as a project or projects or a part thereof. In case of real property so conveyed, the title thereto shall remain in the city but the authority shall have the use and occupancy thereof for so long as its corporate existence shall continue. In the case of personal property so conveyed, the title shall pass to the authority.

2. A city may acquire in the name of the city by purchase or condemnation real property in the city for any of the projects.

3. Contracts may be entered into between a city and an authority providing for the property to be conveyed by a city

to an authority, the additional property to be acquired by a city and so conveyed, and the amounts, terms and conditions of payment to be made by an authority. Any such contracts between a city and an authority may be pledged by the authority to secure its bonds and may not be modified thereafter except as provided by the terms of the pledge. The governing body of a city may authorize such contracts between a city and an authority and no other authorization on the part of a city for such contracts shall be necessary.

4. An authority may itself acquire real property for a project in the name of the city at the cost and expense of the authority by purchase or condemnation pursuant to the condemnation law or pursuant to the laws relating to the condemnation of land by cities. An authority shall have the use and occupancy of such real property so long as its corporate existence shall continue.

5. In case an authority shall have the use and occupancy of any real property which it shall determine is no longer required for a project, then, if such real property was acquired at the cost and expense of the city, the authority shall have power to surrender its use and occupancy thereof to the city, or, if such real property was acquired at the cost and expense of an authority, then the authority shall have power to sell, lease, or otherwise dispose of said real property at public or private sale, and shall retain and have the power to use the proceeds of sales, rentals, or other moneys derived from the disposition thereof for its purposes.

§ 7. Construction Contracts.) An authority shall let contracts for construction in the same manner, so far as practicable, as is provided by law for contracts of cities except that where the estimated expense of a contract does not exceed five hundred dollars, such contract may be entered into without public letting. Nothing in this section shall be construed to limit the power of an authority to do any construction directly by the officers, agents, and employees of the authority.

§ 8. Moneys of the Authority.) All moneys of an authority shall be paid to the city treasurer as agent of the authority, who shall not commingle such moneys with any other moneys. Such moneys shall be deposited in a separate bank account or accounts. The moneys in such accounts shall be paid out by the treasurer on requisition of the chairman of the authority or of such other person or persons as the authority may authorize to make such requisitions after audit by the treasurer. All deposits of such moneys shall, if required by the treasurer or the authority, be secured by obligations of the United States or of the state of North Dakota of a market value equal at all

times to the amount of the deposit, and all banks and trust companies are authorized to give such security for such deposits. The treasurer and his legally authorized representatives are authorized and empowered from time to time to examine the accounts and books of the authority, including its receipts, disbursements, contracts, leases, sinking funds, investments, and any other records and papers relating to its financial standing. An authority shall have power, notwithstanding the provisions of this section, to contract with the holders of any of its bonds as to the custody, collection, securing, investment, and payment of any moneys of the authority, or any moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds, and to carry out any such contract notwithstanding that such contract may be inconsistent with the previous provisions of this section. Moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of such moneys may be acquired in the same manner as moneys of the authority, and all banks and trust companies are authorized to give such security for such deposits.

The accounts of an authority shall be subject to the supervision of the state auditor.

§ 9. Bonds of an Authority.) 1. An authority shall have the power and is hereby authorized from time to time to issue its negotiable bonds for any purpose mentioned in section four of this Act, including the acquisition, construction, reconstruction, and repair of personal and real property of all kinds deemed by the board to be necessary or desirable to carry out such purpose, as well as to pay such expenses as may be deemed by the board necessary or desirable to the financing thereof and placing the project or projects in operation. An authority shall have power from time to time and whenever it deems refunding expedient, to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and may issue bonds partly to refund bonds then outstanding and partly for any other purpose hereinabove described. The refunding bonds may be exchanged for the bonds to be refunded, with such cash adjustments as may be agreed, or may be sold and the proceeds applied to the purchase or payment of the bonds to be refunded. In computing the total amount of bonds of an authority which may at any time be outstanding the amount of the outstanding bonds to be refunded from the proceeds of the sale of new bonds or by exchange for new bonds shall be excluded. Except as may otherwise be expressly provided by an authority, the bonds of every issue shall be payable out of any moneys or revenues of an authority, subject only to any agreements with

the holders of particular bonds pledging any particular moneys or revenues. Notwithstanding the fact that the bonds may be payable from a special fund, if they are otherwise of such form and character as to be negotiable instruments under article eight of the Uniform Commercial Code, the bonds shall be and are hereby made negotiable instruments within the meaning of and for all the purposes of article eight of the Uniform Commercial Code, subject only to the provisions of the bonds for registration.

2. The bonds shall be authorized by resolution of the board and shall bear such date or dates, mature at such time or times, not exceeding thirty years from their respective dates, bear interest at such rate or rates, not exceeding six percent per annum payable annually or semiannually, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in lawful money of the United States of America at such place or places, and be subject to such terms of redemption, as such resolution or resolutions may provide. The bonds may be sold at public or private sale for such price or prices as the authority shall determine, but which shall not at the time of sale yield more than six percent per annum.

3. Any resolution or resolutions authorizing any bonds or any issue of bonds may contain provisions, which shall be part of the contract with the holders of the bonds thereby authorized, as to

(a) pledging all or any part of the revenues of a project or projects to secure the payment of the bonds, subject to such agreements with bondholders as may then exist;

(b) the rentals, fees and other charges to be charged, and the amounts to be raised in each year thereby, and the use and disposition of the revenues;

(c) the setting aside of reserves or sinking funds, and the regulation and disposition thereof;

(d) limitations on the right of an authority to restrict and regulate the use of a project;

(e) limitations on the purpose to which the proceeds of sale of any issue of bonds then or thereafter to be issued may be applied and pledging such proceeds to secure the payment of the bonds or of any issue of the bonds;

(f) limitations on the issuance of additional bonds; the terms upon which additional bonds may be issued and secured; the refunding of outstanding or other bonds;

(g) the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given;

(h) limitations on the amount of moneys derived from a project to be expended for operation, administration, or other expenses of an authority;

(i) vesting in a trustee or trustees of such property, rights, powers, and duties in trust as an authority may determine which may include any or all of the rights, powers, and duties of the trustee appointed by the bondholders pursuant to section sixteen of this Act, and limiting or abrogating the right of the bondholders to appoint a trustee under said section or limiting the rights, duties, and powers of such trustee;

(j) any other matters, of like or different character, which in any way affect the security or protection of the bonds.

4. It is the intention hereof that any pledge of revenues or other moneys made by an authority shall be valid and binding from the time when the pledge is made; that the revenues or other moneys so pledged and thereafter received by an authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act; and that the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against an authority irrespective of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded.

5. Neither the members of an authority nor any person executing the bonds shall be liable personally on the bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

6. An authority shall have power out of any funds available therefor to purchase bonds. An authority may hold, cancel, or resell such bonds, subject to and in accordance with agreements with bondholders.

7. In the discretion of an authority, the bonds may be secured by a trust indenture by and between an authority and a corporate trustee, which may be any trust company or bank within or without the state of North Dakota. Such trust indenture may contain such provisions for protecting, and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of an authority in relation to the construction, maintenance, operation, repair, and insur-

ance of the project or projects and the custody, safeguarding, and application of all moneys, and may provide that the project or projects shall be constructed and paid for under the supervision and approval of consulting engineers. Notwithstanding the provisions of section eight of this Act, an authority may provide by such trust indenture for the payment of the proceeds of the bonds and the revenues of the project or projects to the trustee under such trust indenture or other depository, and for the method of disbursement thereof, with such safeguards and restrictions as it may determine. All expenses incurred in carrying out such trust indenture may be treated as a part of the cost of maintenance, operation, and repairs of the project or projects. If the bonds shall be secured by a trust indenture, the bondholders shall have no authority to appoint a separate trustee to represent them, and the trustee under such trust indenture shall have and possess all of the powers which are conferred by section sixteen of this Act upon a trustee appointed by bondholders.

§ 10. Notes of an Authority.) An authority shall have power from time to time to issue notes and from time to time to issue renewal notes, herein referred to as notes, maturing not later than five years from their respective original dates in an amount not exceeding ten percent over and above the amount of bonds authorized by subsection one of section nine of this Act and outstanding, for any purpose or purposes for which bonds may be issued, whenever an authority shall determine the payment thereof can be made in full from any moneys or revenues which an authority expects to receive from any source. Such notes may, among other things, be issued to provide funds to pay preliminary costs of surveys, plans, or other matters relating to any proposed project. An authority may pledge such moneys or revenues, subject to any other pledge thereof, for the payment of the notes and may in addition secure the notes in the same manner and with the same effect as herein provided for bonds. The notes shall be issued in the same manner as bonds. An authority shall have power to make contracts for the future sale from time to time of the notes, by which the purchasers shall be committed to purchase the notes from time to time on terms and conditions stated in such contracts, and an authority shall have power to pay such consideration as it shall deem proper for such commitments. In case of default on its notes, or violation of any of the obligations of an authority to the noteholders, the noteholders shall have all the remedies provided herein for bondholders.

§ 11. Debt Guarantee Fund.) Prior to the issuance of any bonds authorized by this Act the authority shall require that a debt guarantee fund be established sufficient in amount to guarantee the payment of the principal and interest of the

bonds issued for any project for a period of not less than three years. Such fund when so provided shall be held in escrow by a bank or trust company of the city to be selected by the authority, which fund shall be invested in such manner as the authority shall direct. In the event the revenues of the project or from other sources are insufficient at any time to service any issue of bonds as the same become due the authority shall from time to time withdraw from the fund any amounts necessary or required to pay and discharge such maturing obligations of the bond issue. Upon full payment of the bond issue for any project any balance remaining in said fund including accrued interest thereon shall be paid over by the escrow agent pro rata to the persons contributing to such fund. Should any deficiency remain in the debt guarantee fund after retirement of the bond issue by reason of withdrawals by the authority therefrom the authority or the city upon termination of the authority is authorized to pay the same from revenues thereafter accruing to the project.

§ 12. Agreement of a City.) 1. Cities may pledge to and agree with the holders of the bonds that the city will not limit or alter the rights hereby vested in the authority to acquire, construct, maintain, reconstruct, and operate the project or projects, to establish and collect rentals, fees, and other charges and to fulfill the terms of any agreements made with the holders of the bonds, or in any way impair the rights and remedies of the bondholders, until the bonds, together with interest thereon, with interest on any unpaid installments of interest and all costs and expenses in connection with any action or proceeding by or on behalf of the bondholders, are fully met and discharged.

2. Authorities are hereby authorized, in their discretion, for and on behalf of themselves and the city which authorized them, to covenant and agree with the holders of the bonds, with such exceptions and limitations as it may deem in the public interest, that no public parking areas except those acquired and operated by the authority will be constructed or operated in the city by the city, or by any public benefit or other corporation the members or some of which are elected or are appointed by city officials, until either the bonds, together with interest thereon, interest on any unpaid installments of interest and all costs and expenses in connection with any action or proceeding by or on behalf of the bondholders are fully met and discharged, or principal or interest of any of the bonds shall be overdue and unpaid for a period of three years or more.

§ 13. State and City Not Liable on Bonds.) The bonds and other obligations of an authority shall not be a debt of the

state of North Dakota or of a city, and neither the state nor the city shall be liable thereon, nor shall they be payable out of any funds other than those of an authority.

§ 14. Bonds Legal Investments for Public Officers.) Except as otherwise provided in the Constitution of this state, the bonds are hereby made securities in which all public officers and bodies of this state and all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks, savings associations, including savings and loan associations, building and loan associations, investment companies, and other persons carrying on a banking business, and all other persons whatsoever except as hereinafter provided, who are now or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them; provided that, notwithstanding the provisions of any other general or special law to the contrary, such bonds shall not be eligible for the investment of funds, including capital, of trusts, estates, or guardianships under the control of individual administrators, guardians, executors, trustees, and other individual fiduciaries. The bonds are also hereby made securities which may be deposited with and shall be received by all public officers and bodies of this state and all municipalities and municipal subdivisions for any purpose for which the deposit of bonds or other obligations of this state is now or may hereafter be authorized.

§ 15. Tax Exemptions.) 1. It is hereby determined that the creation of an authority and the carrying out of its corporate purposes is in all respects for the benefit of the people of the city which has authorized it and its environs, and is a public purpose, and an authority shall be regarded as performing a governmental function in the exercise of the powers conferred upon it by this chapter and shall be required to pay no taxes or assessments upon any of the property acquired by it or under its jurisdiction or control or supervision or upon its activities.

2. Any bonds or notes issued pursuant to this chapter, together with the income therefrom, as well as the property of an authority, shall be exempt from taxation, except for transfer and estate taxes.

§ 16. Tax Contract by the State.) The state of North Dakota covenants with the purchasers and with all subsequent holders and transferees of bonds or notes issued by an authority pursuant to this chapter, in consideration of the acceptance of and payment for the bonds or notes, that the bonds and notes

of an authority issued pursuant to this chapter and the income therefrom, and all moneys, funds and revenues pledged to pay or secure the payment of such bonds or notes shall at all times be free from taxation except for estate taxes and taxes on transfers by or in contemplation of death.

§ 17. Remedies of Bondholders.) 1. In the event that an authority shall default in the payment of principal or interest on any issue of the bonds after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that an authority shall fail or refuse to comply with the provisions of this chapter, or shall default in any agreement made with the holders of any issue of the bonds, the holders of twenty-five percent in aggregate principal amount of the bonds of such issue then outstanding, by instrument or instruments filed in the office of the clerk of the district court of the county in which the authority is located and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such bonds for the purposes herein provided.

2. Such trustee may, and upon written request of the holders of twenty-five percent in principal amount of such bonds then outstanding shall, in his or its own name

(a) by action or special proceeding enforce all rights of the bondholders, including the right to require an authority to collect revenues adequate to carry out by any agreement as to, or pledge of, such revenues, and to require an authority to carry out any other agreements with the holders of such bonds and to perform its duties under this chapter;

(b) bring suit upon such bonds;

(c) by action or suit in equity, require an authority to account as if it were the trustee of an express trust for the holders of such bonds;

(d) by action or suit in equity, enjoin any acts or things which may be unlawful or in violation of the rights of the holders of such bonds;

(e) declare all such bonds due and payable, and if all defaults shall be made good then with the consent of the holders of twenty-five percent of the principal amount of such bonds then outstanding, to annul such declaration and its consequences.

3. The district court shall have jurisdiction of any suit, action, or proceeding by the trustee on behalf of bondholders.

The venue of any such suit, action or proceeding shall be laid in the county in which the authority is located.

4. Before declaring the principal of all such bonds due and payable, a trustee shall first give thirty days' notice in writing to an authority.

5. Any such trustee, whether or not the issue of bonds represented by such trustee has been declared due and payable, shall be entitled as of right to the appointment of a receiver of any part or parts of the project the revenues of which are pledged for the security of the bonds of such issue, and such receiver may enter and take possession of such part or parts of the project and, subject to any pledge or agreement with bondholders, shall take possession of all moneys and other property derived from or applicable to the acquisition, construction, operation, maintenance, and reconstruction of such part or parts of the project and proceed with the acquisition of any necessary real property in connection with the project that an authority has covenanted to construct and with any construction which an authority is under obligation to do and to operate, maintain, and reconstruct such part or parts of the project and collect and receive all revenues thereafter arising therefrom subject to any pledge thereof or agreement with bondholders relating thereto and perform the public duties and carry out the agreements and obligations of an authority under the direction of the court. In any suit, action, or proceeding by the trustee, the fee, counsel fees, and expenses of the trustee and of the receiver, if any, shall constitute taxable disbursements and all costs and disbursements allowed by the court shall be a first charge on any revenues derived from such project.

6. Such trustee shall, in addition to the foregoing, have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of bondholders on the enforcement and protection of their rights.

§ 18. **Actions Against an Authority.**) 1. In every action against an authority for damages, for injuries to real or personal property, or for the destruction thereof, or for personal injuries or death, the complaint shall contain an allegation that at least thirty days have elapsed since the demand, claim, or claims upon which such action is founded were presented to a member of the authority, or to its secretary, or to its chief executive officer and that the authority has neglected or refused to make an adjustment or payment thereof for thirty days after such presentment.

§ 19. Termination of an Authority.) Whenever all of the bonds issued by an authority shall have been redeemed or cancelled, the authority shall cease to exist and all rights, titles, and interest and all obligations and liabilities thereof deemed vested in or possessed by the city which created the authority.

§ 20. Inconsistent Provisions in Other Acts Superseded.) Insofar as the provisions of this chapter are inconsistent with the provisions of any other Act, general or special, or of any local law of a city, the provisions of this title shall be controlling.

Approved March 15, 1967.

CHAPTER 343

S. B. No. 370

(Lips, Lowe, Redlin, Decker)

PEDESTRIAN MALL IMPROVEMENTS

AN ACT

Authorizing cities to designate, regulate, maintain and improve streets in the central business district as a mall for primarily pedestrian use, to levy special assessments for the construction and maintenance of such improvements, and to issue special improvement warrants or bonds for said improvements.

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

§ 1. Authority for Pedestrian Mall Improvements.) The governing body of any city may by resolutions create a special improvement district, order and approve plans and specifications, determine the necessity, advertise and enter into contracts, issue special improvement warrants and bonds, and levy special assessments for the improvement of one or more streets within its central business district to be regulated and maintained as a mall for primarily pedestrian use, in the manner and upon the terms and conditions set forth in chapters 40-22 to 40-27 of the North Dakota Century Code, except as otherwise provided in this chapter.

§ 2. Determination of Necessity.) The resolution determining the necessity of the improvement shall designate the portions of streets to be included within the mall and shall state the reason or reasons why such designation is deemed necessary. It is recognized by state policy that such necessity may exist in a city of substantial size for one or more of the following reasons:

1. Increases in population and in automobile usage and parking may create conditions of traffic congestion in the central business district during part or all of normal business hours;
2. Continued unlimited use of the designated street or streets may constitute a hazard to the safety of pedestrians and may impede necessary movement of police and fire equipment, ambulances, and other emergency vehicles;
3. Certain streets may be improved to their maximum width for sidewalk and roadway purposes, and may be incapable of further widening without taking buildings and improvements or substantially impeding the movements of pedestrians using the facilities of the central business district;
4. Orderly plans for urban renewal, rehabilitation and redevelopment may require or may be facilitated by such an improvement; and
5. Pedestrian use may be the highest and best use of such streets, and the limitation of the use thereof by vehicles may be in the best interest of the city and of the optimum benefit to the properties in the improvement district, if:
 - a. Reasonably convenient alternate routes exist for vehicles going through the central business district to other parts of the city and the state; and
 - b. The designated streets are not federal, state or county highways, or, if they are, the making of the improvement is conditioned upon the relocation of such highways in the manner provided by law; and
 - c. Properties abutting on the designated streets can reasonably and adequately receive and deliver merchandise and materials either from other streets or alleys, or by providing for limited use of the designated streets for this purpose.

§ 3. Plans and Specifications.) The plans and specifications shall provide for improvement of the designated streets in a manner designed for use primarily for the free movement, safety, convenience, and enjoyment of pedestrians, whether or not part of the mall is made available for emergency or other permitted vehicles. A mall improvement may provide for and include space for seating, cafe tables, shelters, trees, flower plantings, sculptures, newsstands, telephone booths, traffic signs, kiosks, fire hydrants, street lighting, ornamental lights, trash receptacles, display cases, marquees, awnings,

canopies, overhead and underground radiant heating devices, walls, barriers, and all such other fixtures, equipment, facilities, and appurtenances as will in the governing body's judgment enhance the free movement, safety, convenience, and enjoyment of pedestrians and benefit the adjoining properties and the central business district and the city. Sidewalks may be constructed of concrete, bricks, asphalt tiles, blocks, granite sets, or such other materials or combinations of materials as the governing body may approve. The governing body may in its discretion narrow any roadway to be kept and maintained in the mall, may cause any street vaults to be reconstructed or removed, may construct crosswalks at any point within or at the ends of blocks, and may cause any roadway to curve and meander within the limits of the street, if deemed desirable to enhance the usefulness or appearance of the mall, regardless of any non-uniformity of street width or any curve or absence of curve in the center line of the street.

§ 4. Jurisdiction to Improve and Regulate.) Upon hearing of any protests made by the owners of property within the improvement district in the time and in the manner provided by law, if the governing body shall determine the protests to be insufficient, it may proceed with the improvement as in the case of other special improvements, provided that before so proceeding a certified transcript of the resolution of necessity shall be recorded in the office of the register of deeds, and any person aggrieved thereby may appeal therefrom to the district court of the county within twenty days after such recording, but only on the ground that the establishment of the mall in accordance with the resolution will unreasonably and arbitrarily obstruct the public use of and interest in the designated street or streets, or that such resolution has been adopted in a manner contrary to law. Notwithstanding the establishment of a mall or the improvement of any street or any portion thereof as a part of such mall, or any limitation of the use thereof by vehicles, the city and the governing body shall retain at all times their police powers and other powers and rights pertaining thereto, and no such action shall constitute a vacation, in whole or in part, of any portion of a city street.

§ 5. Regulations.) The jurisdiction of the city to make a pedestrian mall improvement, when established in the manner provided by law, shall include jurisdiction to establish by ordinance and from time to time amend reasonable regulations for the use of the mall, conforming to the following provisions:

1. Vehicles shall be permitted to cross the mall at all street intersections except those of two streets each forming part of the mall;

2. The owners and occupants of all properties abutting upon the mall which have access to no other street or alley for delivery or receipt of merchandise and materials shall be permitted to use the mall during such days and hours, which need not be ordinary business days or hours, and in such manner and over such distance, as the governing body shall find to be reasonably adequate for this purpose and to be possible without interfering with use by pedestrians and by emergency and other vehicles for which use is permitted;
3. The regulations may permit use for any purpose or activity which will enhance the freedom of movement, safety, convenience or enjoyment of pedestrians, including but not limited to, seating, sidewalk cafes, displays of merchandise, exhibits, advertising, telephones, transit, transit stops and shelters, newsstands, plantings, ornaments, protection from the elements, emergency vehicles, and police and fire equipment;
4. The governing body may adopt a use plan prepared by city officers or consultants, providing for the location and distribution within the mall of furniture, sculpture, pedestrian traffic control devices, trees, flowers, lighting or heating facilities, and any other equipment or properties placed or installed in the mall, whether owned by the city or others, and may license and regulate the operation and maintenance thereof; and
5. Any furniture, structure, facility, or use located or permitted pursuant to such a plan shall not, by reason of such location or use, be deemed a nuisance or unlawful obstruction or condition, and neither the city nor any user acting under permit shall be liable for any injury to person or property therefor unless directly caused by its own negligence or that of its employees in the construction, maintenance, or operation of such furniture, structure, facility, or use.

§ 6. Maintenance and Improvement.) A pedestrian mall established pursuant to this chapter may be maintained and the cost of such maintenance may be paid by all means permitted by law for other streets. The governing body may also annually cause an estimate to be made of the probable cost of such maintenance during the current fiscal year, in excess of the cost of maintenance of streets of similar length, width, and location not used as a mall, and may assess such excess cost of maintenance on properties within the improvement district, provided that such assessments shall not exceed the special benefits determined to be received by said properties

from such maintenance. The assessment list approved by the governing body shall be filed in the office of the city auditor, who shall mail to the street address of each lot and parcel proposed to be assessed, and to such other address as may be requested in writing by the owner or occupant of any such lot or parcel, a notice stating the amount proposed to be assessed upon such lot or parcel, and that any objection thereto may be made in writing filed with the city auditor on or before a specified date, not less than twenty days after such mailing, on which date, at a time and place specified in the notice, the governing body will consider all objections. At this meeting, or any adjournment thereof, the governing body shall review all assessments and hear all persons desiring to be heard, and may amend the assessments in such manner as it shall determine to be just and reasonable, and may confirm the same and direct the assessment list to be filed with the county auditor, and the assessments made therein to be extended upon the tax lists of the city for the current year and collected with interest and penalties as general taxes are collected and paid over to the city treasurer and placed by him in a special fund to be used only for the purpose of current, reasonable and necessary expenses of the operation and maintenance of the mall.

§ 7. Additional Improvements and Extensions.) An established pedestrian mall may be subsequently improved or extended by proceedings taken in the same manner as for its establishment, and such improvements or extensions may thereafter be regulated and maintained as provided above.

Approved March 1, 1967.

UNIFORM COMMERCIAL CODE

CHAPTER 344

S. B. No. 309
(Torgerson, Becker)

NOTICES IN AUCTION SALES

AN ACT

To amend and reenact subsection 4 of section 41-06-08 of the North Dakota Century Code, relating to notices in auction sales and the corresponding provision of the North Dakota Uniform Commercial Code.

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

§ 1. Amendment.) Subsection 4 of section 41-06-08 of the North Dakota Century Code, designated as subsection 4 of section 6-108 of the Uniform Commercial Code, is hereby amended and reenacted to read as follows:

4. Failure of the auctioneer to perform any of these duties does not affect the validity of the sale or the title of the purchasers, but if the auctioneer knows that the auction constitutes a bulk transfer such failure renders the auctioneer liable to the creditors of the transferor as a class for the sums owing to them from the transferor up to but not exceeding the net proceeds of the auction. If the auctioneer consists of several persons their liability is joint and several.

Approved March 15, 1967.

CHAPTER 345

H. B. No. 705
(R. Peterson)

SUBORDINATED OBLIGATIONS AND THIRD PARTY
BENEFICIARIES

AN ACT

To create and enact section 41-01-19 of the North Dakota Century Code, relating to subordinated obligations under the Uniform Commercial Code and to amend and reenact section 41-02-35, subsection 3 of section 41-02-75, subsection 3 of section 41-02-81, subdivision f of subsection 4 of section 41-03-34, subsection 3 of section 41-03-57, subdivision b of subsection 2 of section 41-04-33, subsection 3 of section 41-07-15, subdivision b of subsection 1 of section 41-09-05, section 41-09-06, and subsection 2 of section 41-09-16 of the North Dakota Century Code, relating to the North Dakota Uniform Commercial Code in the areas of third party beneficiaries, defaults, payments, notices of dishonor, signatures, warehousemen's liens, chattel paper, and definitions, which all relate to corresponding provisions of the Uniform Commercial Code.

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

§ 1.) Section 41-01-19 of the North Dakota Century Code, designated as section 1-209 of the Uniform Commercial Code, is hereby created and enacted to read as follows:

41-01-19. (1-209) Subordinated Obligations.) An obligation may be issued as subordinated to payment of another obligation of the person obligated, or a creditor may subordinate his right to payment of an obligation by agreement with either the person obligated or another creditor of the person obligated. Such a subordination does not create a security interest as against either the common debtor or a subordinated creditor. This section shall be construed as declaring the law as it existed prior to the enactment of this section and not as modifying it.

§ 2. **Amendment.)** Section 41-02-35 of the North Dakota Century Code, designated as section 2-318 of the Uniform Commercial Code, is hereby amended and reenacted to read as follows:

41-02-35. (2-318) Third-Party Beneficiaries of Warranties Express or Implied.) A seller's warranty whether express or implied extends to any person who may reasonably be expected to use, consume or be affected by the goods and who is injured by breach of the warranty. A seller may not exclude or limit the operation of this section with respect to injury to the person of an individual to whom the warranty extends.

§ 3. Amendment.) Subsection 3 of section 41-02-75 of the North Dakota Century Code, designated as section 2-612 of the Uniform Commercial Code, is hereby amended and reenacted to read as follows:

3. Whenever nonconformity or default with respect to one or more installments substantially impairs the value of the whole contract there is a breach of the whole. But the aggrieved party reinstates the contract if he accepts a non-conforming installment without seasonably notifying of cancellation or if he brings an action with respect only to past installments or demands performance as to future installments.

§ 4. Amendment.) Subsection 3 of section 41-02-81 of the North Dakota Century Code, designated as section 2-702 of the Uniform Commercial Code, is hereby amended and reenacted to read as follows:

3. The seller's right to reclaim under subsection 2 is subject to the rights of a buyer in ordinary course or other good faith purchaser under this chapter (section 41-02-48). Successful reclamation of goods excludes all other remedies with respect to them.

§ 5. Amendment.) Subdivision f of subsection 4 of section 41-03-34 of the North Dakota Century Code, designated as section 3-304 of the Uniform Commercial Code, is hereby amended and reenacted to read as follows:

- f. That there has been default in payment of interest on the instrument or in payment of any other instrument, except one of the same series.

§ 6. Amendment.) Subsection 3 of section 41-03-57 of the North Dakota Century Code, designated as section 3-501 of the Uniform Commercial Code, is hereby amended and reenacted to read as follows:

3. Unless excused (section 41-03-67) protest of any dishonor is necessary to charge the drawer and endorsers of any draft which on its face appears to be drawn or payable outside of the states, territories, dependencies and possessions of the United States, the District of Columbia and the Commonwealth of Puerto Rico. The holder may at his option make protest of any dishonor of any other instrument and in the case of a foreign draft may on insolvency of the acceptor before maturity make protest for better security.

§ 7. Amendment.) Subdivision b of subsection 2 of section 41-04-33 of the North Dakota Century Code, designated as section 4-406 of the Uniform Commercial Code, is hereby amended and reenacted to read as follows:

- b. an unauthorized signature or alteration by the same wrongdoer on any other item paid in good faith by the bank after the first item and statement was available to the customer for a reasonable period not exceeding fourteen calendar days and before the bank receives notification from the customer of any such unauthorized signature or alteration.

§ 8. Amendment.) Subsection 3 of section 41-07-15 of the North Dakota Century Code, designated as section 7-209 of the Uniform Commercial Code, is hereby amended and reenacted to read as follows:

3. a. A warehouseman's lien for charges and expenses under subsection 1 or a security interest under subsection 2 is also effective against any person who so entrusted the bailor with possession of the goods that a pledge of them by him to a good faith purchaser for value would have been valid but is not effective against a person as to whom the document confers no right in the goods covered by it under section 41-07-32.
- b. A warehouseman's lien on household goods for charges and expenses in relation to the goods under subsection 1 is also effective against all persons if the depositor was the legal possessor of the goods at the time of deposit. "Household goods" means furniture, furnishings and personal effects used by the depositor in a dwelling.

§ 9. Amendment.) Subdivision b of subsection 1 of section 41-09-05 of the North Dakota Century Code, designated as section 9-105 of the Uniform Commercial Code, is hereby amended and reenacted to read as follows:

- b. "Chattel paper" means a writing or writings which evidence both a monetary obligation and a security interest in or a lease of specific goods; a charter or other contract involving the use or hire of a vessel is not a chattel paper. When a transaction is evidenced both by such a security agreement or a lease and by an instrument or a series of instruments, the group of writings taken together constitutes chattel paper;

§ 10. Amendment.) Section 41-09-06 of the North Dakota Century Code, designated as section 9-106 of the Uniform Commercial Code, is hereby amended and reenacted to read as follows:

41-09-06. (9-106) Definitions—"Account"—"Contract Right" "General Intangibles".) "Account" means any right to payment for goods sold or leased or for services rendered which

is not evidenced by an instrument or chattel paper. "Contract right" means any right to payment under a contract not yet earned by performance and not evidenced by an instrument or chattel paper. "General intangibles" means any personal property (including things in action) other than goods, accounts, contract rights, chattel paper, documents and instruments. All rights earned or unearned under a charter or other contract involving the use or hire of a vessel and all rights incident to the charter or contract are contract rights and neither accounts nor general intangibles.

§ 11. Amendment.) Subsection 2 of section 41-09-16 of the North Dakota Century Code, designated as section 9-203 of the Uniform Commercial Code, is hereby amended and reenacted to read as follows:

2. A transaction, although subject to this chapter, is also subject to chapters 10-18.1, 13-03, 35-05, 49-09, and 51-13, and in the case of conflict between the provisions of this chapter and any such statute, the provisions of such statute control. Failure to comply with any applicable statute has only the effect which is specified therein.

Approved March 13, 1967.

OCCUPATIONS AND PROFESSIONS

CHAPTER 346

S. B. No. 73
(Longmire, Lowe)

APPRENTICE BARBERS

AN ACT

To amend and reenact sections 43-04-23, 43-04-28, 43-04-32, and 43-04-38 of the North Dakota Century Code, relating to ages of apprentice barbers and requiring a high school education.

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

§ 1. **Amendment.)** Section 43-04-23 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-04-23. Qualifications for Certificate of Registration as Registered Apprentice.) A person is qualified to receive a certificate of registration as a registered apprentice barber if he:

1. Is at least seventeen years of age;
2. Is of good moral character and temperate habits;
3. Has graduated from a school of barbering approved by the board; and
4. Has passed a satisfactory examination conducted by the board to determine his fitness to practice as a registered apprentice.

§ 2. **Amendment.)** Section 43-04-28 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-04-28. Apprentice—Permit to Practice.) A person shall receive a permit to work as an apprentice barber in this state if he has paid the required fee and has the following qualifications:

1. Is at least seventeen years of age;
2. Is of good moral character and temperate habits;
3. Has a high school or an equivalent education as determined by an examination conducted by the board,

provided, however, that two years armed services should be termed equivalent education; and

4. Has a certificate of registration as an apprentice in a state or country which has substantially the requirements for registration as an apprentice prescribed by this chapter.

Such permit shall be valid until the holder thereof is called by the board to determine his fitness to receive a certificate of registration as an apprentice. If he passes the required examination, he shall receive a certificate of registration as a registered apprentice.

§ 3. Amendment.) Section 43-04-32 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-04-32. Barber and Apprentice—Application for Examination.) Any person, who desires to take the examination for a certificate of registration to practice as a registered barber or for a certificate of registration to practice as a registered apprentice, shall make application to the board on blanks prepared and furnished by it and shall enclose with his application the following:

1. Proof, under oath, of his qualifications;
2. A five-inch by three-inch signed photograph of himself. He also shall present such a photograph to the board when he appears for examination;
3. The required fee;
4. A certificate showing graduation from a public or recognized private high school or an equivalent education as determined by an examination conducted by the board, provided, however, that two years armed service should be termed equivalent education.

§ 4. Amendment.) Section 43-04-38 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-04-38. Persons Having Practiced Barbering in Another State—Permit to Practice as Journeyman Barber.) A person shall receive a permit to practice as a journeyman barber if he:

1. Is at least nineteen years of age;
2. Is of good moral character and temperate habits;
3. Has paid the required fee; and
4. Either:

- a. Has a license or certificate of registration as a practicing barber from another state which has substantially the requirements for the licensing or registering of barbers prescribed by this chapter; or
- b. Can prove by affidavits that he has practiced as a barber in another state for at least five years immediately prior to making application in this state.

Such permit shall be valid until the holder thereof is called by the board for examination to determine his fitness to receive a certificate of registration to practice barbering. If such person fails to pass the required examination, he shall be allowed to practice as a journeyman barber until he is called by the board for the next examination, and if he fails in such examination, he shall cease to practice barbering in this state.

Approved March 4, 1967.

CHAPTER 347

S. B. No. 121

(Kautzmann, Lowe, Meschke, Butler)

STATE ELECTRICAL BOARD

AN ACT

To create and enact section 43-09-13.1, relating to apprentice electricians, and to amend and reenact sections 43-09-01, 43-09-02, 43-09-04, 43-09-06, 43-09-11, 43-09-13, and 43-09-15 of the North Dakota Century Code, relating to state electrical board members, compensation, meeting place and notice, license fees, and revocation of licenses of electricians.

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

§ 1. **Amendment.)** Section 43-09-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-09-01. Definitions.) In this chapter, unless the context or subject matter otherwise requires:

1. "Master electrician" shall mean a person having the necessary qualifications, training, experience, and technical knowledge to plan, lay out, and supervise the installation and repair of electrical wiring apparatus, and equipment for electric light, heat, and power in accordance with the standard rules and regulations governing such work;

2. "Journeyman electrician" shall mean a person having the necessary qualifications, training, and technical knowledge to wire, install, and repair electrical apparatus and equipment in accordance with the standard rules and regulations governing such work;
3. "Class B electrician" shall mean a person having the necessary qualifications, training, and technical knowledge to wire, install, and repair electrical apparatus and equipment in accordance with the standard rules and regulations governing such work, and shall have eighteen months experience in farmstead or residential wiring, and shall have passed an examination before the state electrical board based upon the national electrical code as it applies to farmstead or residential wiring;
4. "Apprentice electrician" shall mean a person learning the trade under the personal supervision of a state-licensed electrician;
5. "Board" shall mean the state electrical board.

§ 2. **Amendment.)** Section 43-09-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-09-02. State Electrical Board — Members — Terms of Office — Vacancies.) The state electrical board shall consist of five members appointed by the governor for a term of five years with their terms of office so arranged that one term and only one term shall expire on June thirtieth of each year. One member of the board shall represent the public and shall not be directly associated with the electrical industry. One member of the board shall be selected from three names submitted by each of the following groups: consumer members of rural electric cooperatives, master licensed electricians, licensed journeyman electricians, and investor-owned electric utilities. A member of the board shall qualify by taking the oath of office required of civil officers and shall hold his office until his successor is appointed and qualified. The governor shall fill any vacancy by appointment for the unexpired term of office.

§ 3. **Amendment.)** Section 43-09-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-09-04. Officers of Board — Compensation of Members.) The members of the board shall select from their members a president and a treasurer and the commissioner of insurance shall be secretary of the board. Each appointive member of the board shall receive such amount as may be set by the board but not more than twenty dollars per day for the actual ser-

VICES rendered and in addition thereto, each member shall receive the necessary and actual expenses incurred by him in the discharge of his duties. The mileage and travel expense allowed shall not exceed the amount provided for in section 54-06-09.

§ 4. Amendment.) Section 43-09-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-09-06. Meetings of Board.) The board shall hold a meeting in the month of January of each year in the city of Bismarck, and may hold such other meetings as shall be necessary to conduct examinations and perform the other duties coming before it. Special meetings shall be held at the time and place determined by the president, and upon ten days' written notice given by him to each member of the board.

§ 5. Amendment.) Section 43-09-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-09-11. Qualifications as to Experience.) An applicant for an electrician's license shall have the following experience:

1. Master electrician, one year's experience as a licensed journeyman electrician;
2. Journeyman electrician, four years' experience in installing and repairing electrical wiring, apparatus and equipment;
3. Class B electrician, eighteen months' experience in farmstead or residential wiring.

§ 6. Amendment.) Section 43-09-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-09-13. License Fees.) The following shall be the examination and annual license fees required to be paid for an electrician's license:

1. Master electrician: examination fee, twenty-five dollars, annual license fee, forty dollars;
2. Journeyman electrician: examination fee, ten dollars, annual license fee, fifteen dollars;
3. Class B electrician: examination fee, ten dollars, annual license fee, twenty dollars.

§ 7.) Section 43-09-13.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

43-09-13.1. Apprentice Electrician Registration.) An apprentice electrician shall register with the state electrical board after six months of employment and shall pay an annual registration fee of five dollars. He shall not be allowed to work on installations without the personal supervision of a licensed electrician.

§ 8. Amendment.) Section 43-09-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-09-15. Renewal of License—Denial, Suspension, or Revocation of Licenses.) An electrician's license shall be issued for a term of only one year, but may be renewed without examination upon the payment of the proper fee. If the licensee fails to renew his license for a period of five consecutive years or more, he may be required to appear for re-examination. The state electrical board may deny, suspend, revoke, or refuse to renew any license issued or applied for under the provisions of this chapter for any of the following reasons:

1. Failure or refusal to maintain or adhere to the minimum standards set forth in the electrical code referred to in section 43-09-21.
2. Any cause for which the issuance of the license could have been refused had it then existed and been known to the board.
3. Commitment of any act of gross negligence, incompetency, or misconduct in the practice of a master or journeyman electrician or the business of an electrical contractor.
4. Material misstatement, misrepresentation, or fraud in obtaining the license.
5. After due notice, failed or refused to correct, within the specified time, any electrical installation not in compliance with the provisions of this chapter.

Any person whose license is denied or whose license is suspended or revoked by the board, or who is refused a license by the board, may appeal to the appropriate court.

Approved March 8, 1967.

CHAPTER 348

S. B. No. 181
(Longmire)

PRE-NEED FUNERAL SERVICES

AN ACT

Relating to the regulation of pre-need funeral service contracts, providing penalties, and to amend and reenact section 23-06-03.1 of the North Dakota Century Code, relating to deposit, safekeeping, and withdrawal of payments upon pre-need funeral service contracts.

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

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

1. "Person" means any natural person, firm, association, corporation, or agents or employees thereof.
2. "Pre-need funeral service contract" means any contract, other than a contract of insurance, under which for a specified consideration paid in advance in a lump sum or by installments, a person promises, upon the death of a beneficiary named or implied in the contract, to furnish funeral services or burial supplies and equipment.
3. "Funeral services or burial supplies and equipment" means all services, supplies, and equipment normally performed or furnished by a licensed embalmer and a licensed funeral establishment but shall not include services normally performed by a cemetery including the sale by the cemetery of lands or interests therein, services incidental thereto, markers, memorials, monuments, equipment, crypts, or vaults constructed or to be constructed in a mausoleum or columbarium or affixed to real property.
4. "Licensed funeral establishment" means a funeral establishment as defined and licensed in accordance with sections 43-10-21 and 43-10-22 of the North Century Code.

§ 2. Pre-Need Funeral Service Contracts.) No person shall engage in the sale or execution of a pre-need funeral service contract unless such person shall be the operator or manager of a licensed funeral establishment or an agent or employee of such operator, manager, or establishment.

§ 3. Annual Report Filed with Secretary of State.) On or before January thirty-first of each year, the owner or manager of each licensed funeral establishment shall file a report cover-

ing the period of the preceding calendar year with the secretary of state, which report shall include:

1. The name and address of the licensed funeral establishment and the name and address of the manager or operator thereof.
2. The name of the purchaser and beneficiary of each pre-need funeral service contract executed on behalf of the licensed funeral establishment during the preceding calendar year and the date such contract was executed.
3. The lump sum consideration paid upon such pre-need funeral service contract or if paid in installments the total amount in dollars of such installment payments during the calendar year.
4. The name and address of the bank or trust company in which such consideration was deposited in accordance with section 23-06-03.1.
5. The total in dollars of all sums received as consideration upon pre-need funeral service contracts executed by the licensed funeral establishment or in its behalf during all periods after the effective date of this Act which are undrawn or unexpended and on deposit in a bank or trust company or in the hands of the licensed funeral establishment.
6. Such other information as may reasonably be required by the secretary of state for the purpose of the proper administration of this Act.

Such report shall be accompanied by a filing fee of five dollars and shall be a public record.

§ 4. Bond Required in Certain Cases.) In the event the total sum received as consideration upon pre-need funeral service contracts as reported in accordance with subsection 5 of section 3 of this Act shall exceed the sum of five thousand dollars, the owner or operator of the licensed funeral establishment shall, at the time of filing the annual report required in section 3 of this Act, file with the secretary of state a corporate or personal surety bond approved by the secretary of state in the amount of ten thousand dollars. Such bond shall be conditioned upon the faithful performance of all provisions of the pre-need funeral service contract and shall be payable to the secretary of state for the use and benefit of the purchasers or persons making payments upon pre-need funeral service contracts or their estates, or the beneficiary of the pre-need funeral service contract or his estate for damages suffered by them because of the failure to comply with all provisions of the pre-need funeral service contract.

§ 5. Verification by Secretary of State.) Within ninety days after the filing of a report as required by section 3 of this Act, the secretary of state shall verify such report by mailing to five percent of the purchasers or persons making payments upon such pre-need funeral service contracts and to the banks or trust companies where the report indicates the consideration filed has been deposited, a questionnaire which the purchaser or person making payment and the bank or trust company is requested to complete and return, verifying the facts stated in the report in regard to the contract or the deposit of funds. He shall verify the facts on additional contracts reported if he shall have reason to believe additional verification to be necessary, but shall always verify at least one contract listed in every report.

§ 6. Special Audits—Violations of Law.) In the event any licensed funeral establishment or its operator or manager shall fail or refuse to file the reports as required by this Act, or in the event the secretary of state may have reason to believe as a result of discrepancies discovered through verification procedures as provided in section 5 of this Act which have not been satisfactorily explained or corrected, or based upon other reliable information that any licensed funeral establishment or its operator or manager may have violated any of the provisions of this Act, he may in his discretion, after consultation with the board of embalmers, employ a special auditor selected by him for the purpose of auditing the books and records of the licensed funeral establishment or its operator or manager for the purpose of determining compliance with this Act and such auditor shall have the right to enter upon the premises and examine such books and records as may be necessary to complete the audit. The costs of such special audits, but not exceeding a total of one thousand dollars in any calendar year, shall be paid by the state board of embalmers from funds available to the board. If such audit was caused by refusal or failure to file reports as required by this Act or if such audit shall disclose a violation of this Act, such board shall immediately forward a claim for the costs of each special audit to the licensed funeral establishment which was audited or to its operator or manager if such persons were audited, and such establishment, or its operator or manager if such persons were audited, shall immediately reimburse the state board of embalmers for the audit costs. In the event that such claim shall not be paid within a reasonable time after its presentation, it shall be forwarded to the attorney general who shall bring such action in the name of the state board of embalmers and the state of North Dakota as may be required for its collection.

§ 7. **Prosecution for Violations of Law.)** If, as a result of verification procedures or special audits as provided in sections 5 and 6 of this Act or based upon other reliable information the secretary of state, after consultation with the attorney general, shall believe that grounds for criminal prosecution of the operator or manager of any licensed funeral establishment or any other person exists for violation of this Act or any other law of this state, he shall forward such information and evidence as is available or known to him to the state's attorney of the county having jurisdiction over such violation for such criminal prosecution of such operator, manager or other person as the information and evidence requires.

§ 8. **Amendment.)** Section 23-06-03.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-06-03.1. Payments on Pre-Need Funeral Contracts To Be Deposited in a Bank or Trust Company — Bank Shall Keep Record of Deposit.) Whenever payments are made to any person upon pre-need funeral service contracts, all payments made under the contract shall be deposited within thirty days in a bank or trust company carrying federal deposit insurance and located within the state of North Dakota. Such funds may be released by the bank or trust company to the depositor upon the death of the person for whose benefit the funds were paid. A certified copy of the certificate of death shall be furnished to the bank or trust company as prima facie evidence of death. Such funds may be released by the bank or trust company to the person making such payment, prior to the death of the person for whose benefit the funds are paid, upon a five day written notice by registered or certified mail made by the bank or trust company to the depositor at the request of the person making such payment.

Any bank or trust company receiving such a deposit shall keep a complete record thereof, showing the name of the depositor, name of the person making payment, name of the person for whose benefit payment is made, and any other pertinent information.

§ 9. **Penalties for Violation of Act.)** Any person who shall refuse, fail or neglect to file any report and provide any information as required by section 3 of this Act after written notification by the secretary of state that he is required to do so, or who shall wilfully file any false or fraudulent reports, or who shall otherwise violate any provisions of this Act shall be guilty of a misdemeanor and punished by a fine of not over five hundred dollars or thirty days in jail or both such fine and imprisonment.

Approved February 25, 1967.

CHAPTER 349

S. B. No. 79

(Kelly, Longmire, Becker)

ADMINISTRATION BY OPTOMETRIC BOARD

AN ACT

To amend and reenact sections 43-13-07, 43-13-08, 43-13-17, 43-13-19, 43-13-20, of the North Dakota Century Code, relating to compensation for services and reimbursements of expenses of members of the optometric board, and collection, custody and disbursements of funds of the board, and reimbursement of clerical expenses and other services by the secretary of the board of optometry, and an examination for a certificate of registration to practice optometry, the contents thereof and the fees for such examination, and certificate of registration and fees paid therefor, and provisions for failure to pass examination and reexamination and fees therefor, and certificates of registration to practice optometry, and renewal, revocation, and reinstatement thereof and annual license fees therefor.

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

§ 1. **Amendment.)** Section 43-13-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-13-07. Compensation and Expenses of Board Members.)

Each member of the board shall receive \$25.00 as compensation for each day he actually is engaged in performing the duties of his office, and such mileage and travel expenses as are provided for in section 54-06-09 and additional allowance for other necessary expenses incurred in attending said meeting not to exceed \$5.00 per day. Moneys collected for the board under the provisions of this chapter shall be kept by the secretary and disbursed only on warrants signed by the president and secretary. At the end of his term, the secretary shall account to his successor for any money remaining in his hands.

§ 2. **Amendment.)** Section 43-13-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-13-08. Secretary of Board—Compensation.) The secretary of the board shall receive for clerical expenses and services such compensation and allowance as the board may deem just and proper, not to exceed five dollars for each certificate or license issued or renewed.

§ 3. **Amendment.)** Section 43-13-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-13-17. Application for Examination—Contents—Educational Requirements—Fee for Examination.) Any person desiring to take the examination for a certificate of registration to practice optometry in this state shall file with the secretary of the board, at least five days before the date of the examination, a written application for examination. The application shall be accompanied by the affidavits of two freeholders of this state to the effect that the applicant is of good moral character. The applicant also shall furnish satisfactory proof that he:

1. Is at least twenty-one years of age;
2. Has attended high school for four years or has the equivalent of such an education;
3. Is a graduate of a class "A" optometry school or college.

Before beginning the examination, the applicant shall pay to the secretary of the board the sum of forty dollars.

§ 4. Amendment.) Section 43-13-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-13-19. Certificate—When Issued—Fee—Failure to Pass Examination—Reexamination.) Every applicant for a certificate of registration to practice optometry in this state who successfully passes the examination given by the board shall receive a certificate of registration and shall be registered upon the payment to the secretary of the board of the sum of twenty-five dollars. If the applicant fails to pass the first examination, within fourteen months thereafter, he may have another examination upon the payment of the sum of five dollars. The examination shall be given at such time and place as may be designated by the board.

§ 5. Amendment.) Section 43-13-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-13-20. Term of Certificate—Renewal—Annual License Fee.) A certificate of registration to practice optometry in the state shall be issued for one year only but may be renewed by paying to the secretary of the board, during the month of January of each year, the license fee for the succeeding year. The license fee for each year shall be determined annually by the North Dakota state board of optometry and shall not exceed one hundred dollars. Failure by any person to pay the annual license fee shall constitute a revocation of his certificate of registration, effective from and after February first of the year in which the annual license fee becomes due and payable. The

certificate of registration may be reinstated by the board upon the payment by the person in default of an additional sum of twenty-five dollars and upon the performance of such other reasonable conditions as the board may impose.

Approved March 6, 1967.

CHAPTER 350

S. B. No. 239
(Ringsak, Kelly(15))

NONDISCRIMINATION TOWARDS OCULAR PRACTITIONER

AN ACT

To create and enact section 43-13-30 of the North Dakota Century Code, relating to reports and testimony accepted, nondiscrimination and freedom of choice of ocular practitioner.

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

§ 1.) Section 43-13-30 of the North Dakota Century Code is hereby created and enacted to read as follows:

43-13-30. Reports and Testimony Accepted—Nondiscrimination and Freedom of Choice of Ocular Practitioner.) The testimony and reports of an optometrist licensed to practice in this state shall be received by any state, county, municipality, school district or other public board, body, agency, institution or official and by any private educational or other institution receiving public funds as qualified evidence with respect to any matter within the scope of the practice of optometry as defined in section 43-13-01; and no such board, body, agency, official or institution shall, in retaining and utilizing the professional services of ocular practitioners, discriminate between licensed practitioners of optometry and physicians or interfere with any individual's right to free choice of ocular practitioner, when such professional services are within the scope of section 43-13-01 of the North Dakota Century Code. Nothing herein shall in any manner restrict the authority of any such board, body, agency, official, or institution from utilizing the services of physician for examinations of the eyes or treatment of diseases of the eyes.

Section 43-13-13 of the North Dakota Century Code shall apply in actions to correct any violations of this section.

Approved March 4, 1967.

CHAPTER 351

H. B. No. 692

(Wagner)

QUALIFICATIONS OF ASSISTANT REGISTERED PHARMACIST

AN ACT

To amend and reenact section 43-15-17 of the North Dakota Century Code, relating to qualifications of assistant registered pharmacist.

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

§ 1. **Amendment.)** Section 43-15-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-15-17. Qualifications for Assistant Registered Pharmacist.) An applicant for examination and registration as an assistant pharmacist in this state shall have the following qualifications:

1. Be over eighteen years of age;
2. Be a person of good moral character;
3. Be a graduate of an approved school or college of pharmacy.

The applicant, as a condition precedent to the right to be examined, shall present and file with the board satisfactory evidence of such qualifications.

Approved February 24, 1967.

CHAPTER 352

S. B. No. 214
(Kautzmann, Butler)

PROFESSIONAL ENGINEERS AND LAND SURVEYORS

AN ACT

To regulate the practice of engineering and land surveying; provide for the registration of qualified persons as engineers and land surveyors, and the certification of engineers-in-training; define the terms "engineer", "professional engineer", "engineer-in-training", "land surveyor" and "practice of engineering"; create a state board of registration for professional engineers and land surveyors and provide for the appointment and compensation of its members; fix the term of members of the board and define its powers and duties; set forth the minimum qualifications and other requirements for registration as a professional engineer, land surveyor and certification as an engineer-in-training; establish registration fees with expiration and renewal requirements; impose certain duties upon the state and political subdivision thereof in connection with public work, and provide for the enforcement of this Act and penalties for its violation; and to repeal chapter 43-19 and chapter 43-24 of the North Dakota Century Code.

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

§ 1. **General Provisions.**) In order to safeguard life, health, and property, and to promote the public welfare, the practice of engineering and land surveying in this state is hereby declared to be subject to regulation in the public interest, and it hereby is declared necessary that a state board of registration for professional engineers and land surveyors be established, which in the exercise of its powers shall be deemed to be an administrative agency within the purview of chapter 28-32 of the North Dakota Century Code. It shall be unlawful for any person to practice, or to offer to practice, professional engineering or land surveying in this state, as defined in the provisions of this Act, or to use in connection with his name or otherwise assume, or advertise any title or description tending to convey the impression that he is an engineer or land surveyor, unless such person has been duly registered or exempted under the provisions of this Act. The right to engage in the practice of engineering or land surveying shall be deemed a personal right, based on the qualifications of the individual as evidenced by his certificate of registration, which shall not be transferable.

§ 2. **Definitions.**) In this Act unless the context or subject matter otherwise requires:

1. "Engineer" shall mean a professional engineer, as defined in subsection 2 of this section.

2. "Professional engineer" shall mean a person who, by reason of his special knowledge or use of the mathematical, physical and engineering sciences and the principles and methods of engineering analysis and design, acquired by engineering education and engineering experience, is qualified to practice engineering, and who has been duly registered and licensed by the state board of registration for professional engineers and land surveyors.
3. "Engineer-in-training" shall mean a person who complies with the requirements for education, experience and character, and has passed an examination in the fundamental engineering subjects, as provided in sections 12 and 15 of this Act.
4. "Practice of engineering and practice of professional engineering" shall mean any service or creative work, the adequate performance of which requires engineering education, training, and experience in the application of special knowledge of the mathematical, physical, and engineering sciences to such services or creative work as consultation, investigation, evaluation, planning and design of engineering works and systems, engineering teaching of advanced engineering subjects or courses related thereto, engineering surveys, and the inspection of construction for the purpose of assuring compliance with drawings and specifications; any of which embraces such service or work, either public or private, in connection with any utilities, structures, buildings, machines, equipment, processes, work systems, or projects as are incidental to the practice of engineering. A person shall be construed to practice or offer to practice engineering, within the meaning and intent of this Act, who practices any branch of the profession of engineering; or who, by verbal claim, sign, advertisement, letterhead, card, or in any other way represents himself to be an engineer, or through the use of some other title implies that he is an engineer or that he is registered under this Act; or who holds himself out as able to perform, or who does perform any engineering service or work or any other service which is recognized as engineering, for a valuable consideration for others including the public at large, but shall not mean or include the practice of engineering by persons exempt under the provisions of section 29 of this Act, nor the work ordinarily performed by persons who operate or maintain machinery or equipment. Notwithstanding the foregoing provisions, a person shall not be

construed to practice engineering unless he offers engineering services to, or performs such engineering for, the public.

5. "Board" shall mean the state board of registration for professional engineers and land surveyors hereinafter provided by this Act.
6. "Responsible charge" shall mean direct control and personal supervision of engineering or surveying work.
7. "Land surveying" shall mean any service comprising the determination of the location of land boundaries, and land boundary corners, incidental topograph, the preparation of maps showing the shape and area of tracts of land and their subdivision into smaller tracts; the preparation of maps showing the layouts of roads, streets, and rights-of-way of same to give access to smaller tracts and the preparation of official plats or maps of said land thereof within this state.
8. "Land surveyor" shall mean any person engaged in the practice of land surveying as herein defined.
9. "The practice or offer to practice surveying" shall include the engagement of any person in land surveying or the representation by any person by verbal claim, sign, letterhead, card, or in any other manner, that such person is a land surveyor and is able to perform land surveying in this state.

§ 3. Board — Appointments — Terms.) A state board of registration for professional engineers and land surveyors is hereby created whose duty it shall be to administer the provisions of this Act. The board shall consist of five (5) professional engineers who shall be appointed by the governor from among a list of nominees submitted to him by the North Dakota society of professional engineers who shall have the qualifications required by section 4, such list to contain the names of at least three times the number of nominees as there are vacancies to be filled. The members of the board shall be appointed for five (5) years, staggered so the term of one member shall expire June thirtieth of each year. Existing board members shall serve until their term expires. Each member of the board shall receive a certificate of his appointment from the governor and shall file with the secretary of state his written oath or affirmation for the faithful discharge of his official duties. On the expiration of the term of any member, the governor shall in the manner hereinbefore provided appoint for a term of five (5) years a registered professional engineer having the qualifications required in section 4, to take the place of the member

whose term on said board is about to expire. A member may be reappointed to succeed himself. Each member shall hold office until the expiration of the term for which appointed or until a successor has been duly appointed and has qualified.

§ 4. Board—Qualifications.) Each member of the board shall be a professional engineer, who is a citizen and resident of this state and who shall have been registered in this state a minimum of eight years, and who shall have been engaged in the lawful practice of engineering for at least twelve years and who shall have been in responsible charge of important engineering work for at least five years. At least one member of the board shall be registered both as a professional engineer and as a land surveyor.

§ 5. Board—Compensation and Expenses.) Each member of the board shall receive the sum of fifteen dollars per diem when attending to the work of the board or any of its committees and for the time spent in necessary travel; and, in addition thereto, shall be reimbursed for all actual traveling, incidental, and clerical expenses necessarily incurred in carrying out the provisions of this Act.

§ 6. Board—Removal of Members—Vacancies.) The governor may remove any member of the board for misconduct, incompetency, neglect of duty, or for any sufficient cause, in the manner prescribed by law for removal of state officials. Vacancies in the membership of the board shall be filled for the unexpired term by appointment by the governor as provided in section 3.

§ 7. Board—Organization and Meetings.) The board shall hold at least two regular meetings each year. Special meetings may be held as the bylaws of the board provide. The board shall elect or appoint annually the following officers: A chairman, a vice chairman, and a secretary. A quorum of the board shall consist of not less than three members.

§ 8. Board—Powers.) The board shall have the following powers:

1. To adopt and amend all bylaws, rules of procedure and regulations to administer and carry out the provisions of this Act and for the conduct of its affairs and functions, not inconsistent with the Constitution and laws of this state or this Act, which may be reasonably necessary for the proper performance of its duties and the regulation of its proceedings, meetings, records, examinations and the conduct thereof, and to adopt and promulgate a code of ethics which shall be binding upon all persons registered under or subject to this Act.

2. To adopt and have an official seal, which shall be affixed to each certificate issued.
3. To employ such clerks, technical experts and attorneys as it may deem necessary or desirable to carry out the provisions of this Act.
4. To hold hearings, administer oaths, take and record testimony, and under the hand of its chairman and the seal of the board subpoena witnesses and compel their attendance, and to require the submission of books, papers, documents, or other pertinent data, in any disciplinary matters, or in any case wherever a violation of this Act or of the rules or regulations promulgated by the board is alleged, and to make findings, orders and determinations which shall have the force and effect of law, which shall be subject to review by the courts of this state in the manner provided by chapter 28-32 of the North Dakota Century Code. Upon failure or refusal of any person to comply with any such order of the board, or to honor its subpoena, the board may apply to a court of any jurisdiction to enforce compliance with same.
5. To apply in the name of the state for relief by injunction, without bond, to enforce the provisions of this Act, or to restrain any violation thereof. In such proceedings, it shall not be necessary to allege or prove, either that an adequate remedy at law does not exist, or that substantial or irreparable damage would result from the continued violation thereof. The members of the board shall not be personally liable under this proceeding.

§ 9. Receipts and Disbursements.) The secretary of the board shall receive and account for all moneys derived under the provisions of this chapter, and shall pay the same monthly to the state treasurer, who shall keep such moneys in a separate fund to be known as the "professional engineers' and land surveyors' fund". Such fund shall be kept separate and apart from all other moneys in the treasury, and shall be paid out only upon proper voucher and audit of the state auditing board. All moneys in the "professional engineers' and land surveyors' fund" are specifically appropriated for the use of the board. The secretary shall give a surety bond to the state in such sum as may be required by the laws of this state. The premium on said bond shall be regarded as a proper and necessary expense of the board. The secretary shall receive such salary as the board shall determine. The board shall employ such clerical or other assistants as are necessary for the proper performance of its work, and shall make expenditures of this fund for any purpose which, in the opinion of the board is reasonably neces-

sary for the proper performance of its duties under this Act, including but not limited to the expenses of the board's delegates to meetings of, and membership fees to, the national council of state boards of engineering examiners and any of its subdivisions. Under no circumstances shall the total amount of warrants issued in payment of the expenses and compensation provided for this Act exceed the amount of moneys collected.

§ 10. Records and Reports.) The board shall:

1. Keep a record of its proceedings and of all applications for registration, which record shall show the name, age and last known address of each applicant; the date of application, the place of business of such applicant, his education, experience and other qualifications; type of examination required; whether or not the applicant was rejected; whether or not a certificate of registration was granted; the date of the action of the board; and such other information as may be deemed necessary by the board; which record of the board shall be prima facie evidence of the proceeding of the board and a transcript thereof, duly certified by the secretary under seal, shall be admissible as evidence with the same force and effect as if the original were produced.
2. Annually, as of January first, submit to the governor a report of its transactions of the preceding year, and shall transmit to him a complete statement of the receipts and expenditures of the board, attested by affidavits of its chairman and its secretary.

§ 11. Roster.) A complete roster showing the names and last known addresses of all registered engineers and registered land surveyors shall be published by the secretary of the board at intervals as established by board regulations. Copies of this roster shall be mailed to each person so registered, placed on file with the secretary of state and all county auditors, city auditors, and village clerks and may be distributed or sold to the public.

§ 12. General Requirements for Registration.) To be eligible for registration as a professional engineer or land surveyor, or certification as an engineer-in-training, an applicant must be of good character and reputation and shall submit a written application to the board containing such information as the board may require together with five references, three of which references shall be registered engineers in the case of engineers, or three of which references shall be land surveyors in the case of land surveyors, having personal knowledge of his engineering or land surveying experience, or in

the case of an application for certification as an engineer-in-training, by three character references.

§ 13. Registration Without Examination—Professional Engineers.) An applicant, otherwise qualified shall be admitted to registration as a professional engineer without examination if he is:

1. A person holding a certificate of registration to engage in the practice of engineering, on the basis of comparable qualifications, issued to him by a proper authority of a state, territory, or possession of the United States, the District of Columbia, or any foreign country and who, in the opinion of the board, based upon verified evidence, meets the requirements of this Act, or
2. A person holding a certificate of qualification issued by the national bureau of engineering registration, who in the opinion of the board meets the requirements of this Act, or
3. Any person registered as a professional engineer by the state of North Dakota under the provisions of chapter 43-19 of the North Dakota Century Code, on the thirtieth day of June, 1967.

§ 14. Registration with Examination — Professional Engineers.) An applicant otherwise qualified shall be admitted to registration as a professional engineer, if he has successfully passed a written examination of not less than eight hours in the principles and practice of engineering, as prescribed by the board, and has one of the following additional qualifications:

1. Is a graduate of an engineering curriculum of four years or more approved by the board as being of satisfactory standing; and with a specific record of an additional four years or more of experience in engineering work, of a grade and character which indicates to the board that the applicant may be competent to practice engineering, and who holds a valid engineering-in-training certificate, or
2. Is a person who has satisfactorily completed a four-year engineering or related curriculum not approved by the board and eight years or more of progressive experience in engineering work of a character and grade which indicates to the board that the applicant is competent to practice engineering, and who passes a written examination of not less than eight hours in the fundamentals of engineering designed to show knowledge and skill ap-

proximating that obtained through graduation in an approved four-year engineering or related curriculum, or

3. Is a person with a specific record of at least twenty years of lawful practice in engineering work during at least ten years of which he has been in responsible charge of important engineering work which is of a grade and character which indicates to the board that the applicant is competent to practice engineering, or
4. Is a person with experience of not less than four years as a teacher of engineering in a college or university offering an approved engineering curriculum of four years or more and who has had a minimum of two years of practical engineering experience which is of a character and grade which indicates to the board that the applicant is competent to practice engineering.

§ 15. Additional Qualifications of Engineers-in-Training.)

Except in the case of a person who has filed an application prior to July 1, 1967, and any subsequent re-application by such person, an applicant otherwise qualified shall be admitted to certification as an engineer-in-training which certification shall be valid for a period of twelve years, if he is a person who is:

1. A graduate of an approved engineering curriculum of four years or more approved by the board and has passed the board's written examination of not less than eight hours in the fundamentals of engineering shall be certified or enrolled as an engineer-in-training, or,
2. An applicant who has satisfactorily completed a four year engineering curriculum other than the ones approved by the board and who has a specific record of four or more years of experience in engineering work of a grade and character satisfactory to the board, and who passes the board's written examination of not less than eight hours, in the fundamentals of engineering.

§ 16. Registration—Land Surveyor.) Any person who shall show, to the satisfaction of the board, that he is a person who is otherwise qualified and is over the age of twenty-one years shall be eligible for registration as a land surveyor, if he is:

1. A person holding a certificate of registration to engage in the practice of land surveying issued to him on the basis of a minimum sixteen hour written examination by proper authority of a state, territory, possession of the United States, the District of Columbia, of any

foreign country, based on requirements and qualifications as shown by his application, which, in the opinion of the board, are equal to or higher than the requirements of this Act, or,

2. A graduate from an accredited engineering or surveying curriculum of four years or more, approved by the board, followed by at least four years of land surveying experience, of a character satisfactory to the board; and who shall have passed a written examination of not less than sixteen hours designed to show that he is qualified to practice land surveying, or,
3. A person having eight years or more of active experience in land surveying, of a character satisfactory to the board, and who shall have passed a written examination of not less than sixteen hours designed to show that he is qualified to practice land surveying, or,
4. A person registered as a land surveyor by the state of North Dakota, under the provisions of chapter 43-24 of the North Dakota Century Code, on the thirtieth day of June, 1967.

§ 17. Application for Registration.) Application for registration as a professional engineer or land surveyor, and for certification as an engineer-in-training shall be on a form prescribed and furnished by the board; shall contain statements made under oath, showing the applicant's education and a detailed summary of his technical experience, and references as required by this Act and shall be accompanied by registration fees.

§ 18. Registration Fees.) Registration fees shall be established by the board subject to the following limitations:

1. The registration fee for professional engineers shall be in an amount not to exceed thirty dollars.
2. The fee for engineer-in-training certification or enrollment shall be established by the board in an amount not to exceed ten dollars.
3. The fee for land surveyor shall be established by the board in an amount not to exceed thirty dollars.
4. Should the board deny the issuance of a certificate to an applicant the fee paid shall be retained as an application fee.

§ 19. Examinations.) Written examinations shall be held at such times and places as the board shall determine. Examinations required on fundamental engineering or land survey-

ing subjects be taken at any time prescribed by the board. The final examinations may not be taken until the applicant has completed a period of engineering or land surveying experience as provided in this Act. The passing grade on any examination shall be not less than seventy percent. A candidate failing one examination may apply for reexamination, which may be granted upon payment of a fee established by the board in an amount not to exceed fifteen dollars. Any candidate for registration having an average grade of less than fifty percent may not apply for reexamination for one year from the date of such examination.

§ 20. Certificates.) The board shall issue a certificate of registration upon payment of the registration fee as provided for in this Act, to any applicant who, in the opinion of the board, has met the requirements of this Act. Enrollment cards shall be issued to those who qualify as engineers-in-training. Certificates of registration shall carry the designation "professional engineer" or "land surveyor", shall show the full name of the registrant, without any titles, shall be numbered and shall be signed by the chairman and the secretary under seal of the board. The issuance of a certificate of registration by the board shall be prima facie evidence that the person named therein is entitled to all rights and privileges of a professional engineer or land surveyor, during the term of which the said certificate providing the same has not been revoked or suspended.

§ 21. Seals.) Each registrant hereunder may upon registration obtain a seal of the design authorized by the board, bearing the registrant's name, serial number, and the legend, "registered professional engineer" or "registered land surveyor". Final engineering drawings, specifications, maps, plats, reports or other documents prepared by a person required to be registered under this Act shall, when issued, be signed and stamped with the said seal or facsimile thereof. It shall be unlawful for a registrant to affix, or permit his seal and signature or facsimiles thereof to be affixed, to any engineering drawings, specifications, maps, plats, reports or other documents, after the expiration or revocation or during the suspension of a certificate or for the purpose of aiding and abetting any other person to evade or attempt to evade any provision of this Act.

§ 22. Expirations and Renewals.) Certificates of registration shall expire on the last day of the month of December following their issuance and shall become invalid after that date unless renewed. It shall be the duty of the secretary of the board to notify every person registered under this Act, of the date of the expiration of said certificate of registration and

the amount of fee required for its renewal. Such notice shall be mailed to the registrant at his last known address at least one month in advance of the expiration of said certificate. Renewal may be effected at any time prior to or during the month of December by the payment of a fee as established by the board, not to exceed the fees established in section 18 of this Act. Renewal of an expired certificate may be effected under rules promulgated by the board regarding requirements for reexamination and penalty fees.

§ 23. Reissuance of Certificates.) A new certificate of registration, to replace any certificate lost, destroyed, or mutilated, may be issued, subject to the rules of the board. A reasonable charge shall be made for such issuance.

§ 24. Code of Ethics.) The board shall cause to have prepared and shall adopt a code of ethics, a copy of which shall be delivered to every registrant and applicant for registration under this Act, and which shall be published in the roster provided for herein. Such publication shall constitute due notice to all registrants. The board may revise and amend this code of ethics from time to time and shall forthwith notify each registrant in writing of such revisions or amendments. Such code of ethics when adopted shall apply to all certificate holders, including specialists in a particular branch of the engineering or surveying profession.

§ 25. Disciplinary Action — Revocations — Suspensions or Reprimand.) The board shall have power to suspend, refuse to renew, or revoke the certificate of registration of, or reprimand, any registrant, who is found guilty of: The practice of any fraud or deceit in obtaining a certificate of registration, any gross negligence, incompetence, or misconduct, in the practice of engineering or land surveying, any felony or crime involving moral turpitude; or violation of the code of ethics adopted and promulgated by the board.

§ 26. Disciplinary Action—Procedure.) Any person may prefer charges of fraud, deceit, gross negligence, incompetence, misconduct or violation of the code of ethics, against any individual registrant. Such charges shall be in writing and shall be sworn to by the person or persons making them and shall be filed with the secretary of the board. All charges, unless dismissed by the board as unfounded or trivial, shall be heard by the board within three months after the date on which they shall have been preferred. The time and place for said hearing shall be fixed by the board, and a copy of the charges, together with a notice of the time and place of hearing, shall be served upon the accused either personally or sent by registered or certified mail to the last known address of such individual

registrant, at least thirty days before the date fixed for hearing. At any hearing, the accused registrant shall have the right to appear in person or by counsel, or both, to cross-examine witnesses appearing against the accused, and to produce evidence and witnesses in defense of the accused. If the accused person fails or refuses to appear, the board may proceed to hear and determine the validity of the charges. If, after such hearing, a majority of the board vote in favor of sustaining the charges, the board shall make findings of fact, draw its conclusions and issue its order therein and serve the same upon the accused. In said order the board may reprimand, suspend, refuse to renew, or revoke the accused individual's certificate of registration. Any person who feels aggrieved by any action of the board in denying, suspending, refusing to renew, or revoking his certificate of registration may appeal therefrom to the district court under the procedures provided by chapter 28-32 of the North Dakota Century Code.

§ 27. Right to Practice.)

1. No person shall practice or offer to practice professional engineering or land surveying, as defined by this Act, unless such person is duly registered to practice under or exempt from the provisions of this Act.
2. The practice or offer to practice professional engineering or land surveying by registered professional engineers or registered land surveyors, organized as a partnership or incorporated as a professional corporation under the provisions of the Professional Corporations Act of this state or under the provisions of a similar law of any other state is hereby authorized, provided all of the partners of such partnership or each officer and shareholder in the case of a professional corporation are duly registered under or exempt from the provisions of this Act.
3. In addition to and without impairing any rights or exemptions granted others in this Act, the practice of or offer to practice professional engineering or land surveying as defined in this Act by individual engineers or land surveyors registered under this Act either through or as an officer, employee or agent of a partnership or corporation, or by a partnership or a corporation (other than a professional corporation) through individual engineers or land surveyors registered under this Act, is permitted in this state provided:
 - a. That all officers, employees and agents of such a partnership or corporation who will perform the practice of engineering or of land surveying within this state

- for such partnership or corporation are registered under this Act; and
- b. Each person in responsible charge of the activities of any such partnership or corporation which activities constitute the practice of professional engineering and land surveying is a professional engineer or land surveyor registered in this state or a person authorized to practice professional engineering or land surveying as provided in this Act; and
 - c. That such partnership or corporation has been issued a certificate of authorization by the board as provided by subsection 4 of this section; and
 - d. Each such partnership or corporation shall be jointly and severally responsible with and for the conduct or acts of its agents, employees, or officers in respect to any professional engineering or land surveying services performed or to be executed in this state. No individual practicing professional engineering or land surveying shall be relieved of the responsibility for his conduct or acts performed by reason of his employment by or relationship with such partnership or corporation; and
 - e. All final drawings, specifications, plans, reports, or other engineering or land surveying papers or documents involving the practice of professional engineering or land surveyors as defined in this Act, when issued, shall be dated and bear the seals and signatures of the professional engineers or land surveyors registered under this Act by whom or under whose responsible charge they were prepared; and
4. A partnership or corporation desiring a certificate of authorization or the renewal thereof shall file a written application with the board setting forth the names and addresses of all partners of such partnership or officers and directors of such corporation, and the names and addresses of all other employees of such partnership or corporation who are duly registered to practice professional engineering or land surveying in this state and who are or will be in responsible charge of any engineering or land surveying in this state by such partnership or corporation, together with such other information as the board may require. In the event that during the term of any certificate of authorization issued hereunder there shall be a change in any of the information submitted on the application, such partnership or corporation shall file with the board a written report with respect there-

to within thirty days after the effective date of such change. Upon the receipt of such application and of a fee not to exceed fifty dollars for the initial certificate or thirty dollars for each renewal thereof, unless the department finds an error in such application or that any facts exist which would entitle the board to suspend or revoke such certificate if issued to the applicant, the board shall issue to such partnership or corporation a certificate of authorization or a renewal thereof, which certificate of authorization shall not be transferable. The provisions with respect to issuance, expiration, renewal and reissuance of the certificates of registration of individuals contained in this Act shall be deemed to apply to certificates of authorization issued to partnerships and corporations under this subdivision. Each such partnership or corporation shall be subject to disciplinary proceedings and penalties, and certificates of authorization shall be subject to suspension or revocation for cause, in the same manner and to the same extent as is provided with respect to individual persons and their certificates of registration in sections 26, 29 and 31 of this Act. "Registrant" and "certificate of registration" in sections 26, 29 and 31 of this Act, and the provisions of such sections, shall for the purposes of such sections be deemed to include and apply respectively to any partnership or corporation holding a certificate of authorization issued under this Act and to such certificate of authorization.

§ 28. Public Works.) This state and its political subdivisions, including counties, cities, villages, townships and legally constituted boards, districts, commissions, or authorities shall not engage in the construction of public works involving the practice of professional engineering as herein defined when the contemplated expenditure for the project shall exceed the sum of five thousand dollars, unless the engineering drawings and specifications and estimates have been prepared by, and the construction is executed under the supervision of a registered professional engineer. Any engineering contract executed in violation of this section shall be null and void.

§ 29. Exemption Clause.) This Act shall not be construed to prevent or affect:

1. Temporary permits. The practice or offer to practice engineering or surveying by a person not a resident or having no established place of business in this state, provided such person is legally qualified by registration to practice engineering or surveying, as defined herein, in his own state or country which extends similar privileges to persons registered under this Act, provided such

person shall make application accompanied by the appropriate application fee to the board in writing prior to his practicing or offering to practice engineering or surveying and may be granted a temporary permit for a definite period of time not to exceed one year to do a specific job, provided, however, no right to practice engineering or surveying shall accrue to such applicant with respect to any other work not set forth in said permit.

2. Employees and subordinates. The work of an employee or a subordinate of a person holding a certificate of registration under this Act, or an employee of a person practicing lawfully under subsection 1 of this section; provided such work does not include final engineering or surveying designs or decisions and is done under the direct supervision of and verified by a person holding a certificate of registration under this Act or a person practicing lawfully under subsection 1 of this section.
3. The practice of engineering or surveying for a county by a person not registered under this Act whose appointment as county engineer or county highway superintendent was in effect on January 1, 1967.
4. The practice of any other legally recognized profession or trade, nor shall it be construed to permit registered professional engineers to perform duties requiring the services of a licensed architect, as provided by the laws of the state of North Dakota licensing and regulating architects and architecture.
5. The practice of engineering and land surveying by any person regularly employed to perform engineering services solely for his employer or for a subsidiary or affiliated corporation of his employer, providing the engineering performed is in connection with the property, products or services of his employer.

§ 30. Duties of Register of Deeds.) It shall be unlawful for the register of deeds of any county or any county or any proper public authority to file or record any map, plat, survey, or other document within the definition of land surveying, which does not have impressed thereon, and affixed thereto the personal signature and seal of a registered land surveyor by whom the map, plat, survey or other document was prepared.

§ 31. Violation and Penalties.) Any person who shall practice, or offer to practice, engineering in this state without being registered in accordance with the provisions of this Act, or any person, firm, partnership, organization, association, corporation

or other entity using or employing the words "engineer" or "engineering" or "professional engineer" or "surveyor" or "land surveyor" or any modification or derivative thereof in its name or form of business or activity except as authorized in this Act, or any person presenting or attempting to use the certificate of registration or the seal of another, or any person who shall give any false or forged evidence of any kind to the board or to any member thereof in obtaining or attempting to obtain a certificate of registration or any person who shall falsely impersonate any other registrant of like or different name, or any person who shall attempt to use an expired or revoked or non-existent certificate of registration, or who shall practice or offer to practice when not qualified, or any person who falsely claims that he is registered under this Act, or any person, partnership, corporation or other entity who shall violate any of the provisions of this Act, shall be guilty of a misdemeanor. It shall be the duty of all duly constituted officers, of the state and all political subdivisions thereof, to enforce the provisions of this Act and to prosecute any persons violating same.

§ 32. Duty of Attorney General—Legal Counsel.) The attorney general of the state or his assistant shall act as legal advisor to the board and render such legal assistance as may be necessary in carrying out the provisions of this Act. The board may employ other counsel and necessary assistance to aid in the enforcement or administration of this Act, and the compensation and expenses therefor shall be paid from funds of the board.

§ 33. Transfers Required.) On the first day of July 1967, all officials charged with the duty of administering the provisions of chapter 43-19 and chapter 43-24 of the North Dakota Century Code shall transfer to the state board of registration for professional engineers and land surveyors all books, records, materials, supplies and equipment used by them in their official capacities under the provisions of said chapters and the state treasurer shall transfer all moneys in or due the professional engineers' fund pursuant to said chapters to the professional engineers' and land surveyors' fund established by section 9 of this Act.

§ 34. Repeal of Conflicting Legislation.) All laws or parts of laws in conflict with the provisions of this Act shall be, and the same are hereby repealed.

§ 35. Repeal.) Chapter 43-19 and chapter 43-24 of the North Dakota Century Code are hereby repealed.

§ 36. Invalid Sections.) If any of the provisions of this Act, or if any rule, regulation or order thereunder, or if the application of such provision to any person, or circumstance

shall be held invalid, the remainder of this Act and the application of such provision of this Act or such rule, regulation or order to persons or circumstances, other than those as to which it is held invalid, shall not be affected thereby.

Approved March 14, 1967.

CHAPTER 353

S. B. No. 62
(Longmire)

PRACTICE OF DENTAL HYGIENISTS

AN ACT

To amend and reenact sections 43-20-02, 43-20-03, 43-20-04, 43-20-06, and 43-20-07 of the North Dakota Century Code, relating to the qualifications, examinations, registration, employment, recording and display of licenses, and practice of dental hygienists, and the licensing of dental hygienists licensed to practice in another state.

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

§ 1. **Amendment.)** Section 43-20-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-20-02. Dental Hygienists — Qualifications — Examinations—Registration and License.) Any person of good moral character not already a licensed dental hygienist of this state, being a graduate of an accredited high school or its equivalent, who is a graduate of a school of dental hygiene approved or provisionally approved by the council on education of the American dental association, upon making application for such license and upon the payment of thirty-five dollars, may be examined by the North Dakota state board of dental examiners on the subjects considered essential by it for a dental hygienist. Such examinations shall be conducted by the board of dental examiners. If the applicant, in the opinion of the board, successfully passes said examination, the applicant shall be registered and licensed as a dental hygienist. For such applicants as fail to pass a satisfactory initial examination, subsequent examinations may be had before the board upon payment of a fee of ten dollars for each subsequent examination, but no applicant shall be allowed to take more than three examinations. Applicants for examination shall submit their credentials to said board at least thirty days prior to the examination date, which date shall correspond to the date of examination for applicants for license to practice dentistry in this state.

The North Dakota state board of dental examiners may accept, however, as a substitute for graduation from a school of dental hygiene approved or provisionally approved by the council on education of the American dental association, graduation from a non-approved training school for dental hygienists until July 1, 1968.

§ 2. Amendment.) Section 43-20-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-20-03. Dental Hygienists—Employment of and Practice by.) Any licensed dentist, hospital, public institution or school authorities may employ such licensed dental hygienist. Such hygienist may be employed and operate in the office of a legally licensed dentist, or in any hospital, or in any state or municipal institution, or in public or parochial schools, or under a public board of health in any public clinic authorized by said board. Such hygienists may make X-ray pictures of the teeth and jaws; may clean and polish teeth; may remove stains; may scale teeth to remove lime deposits and accretions and calcareous deposits from exposed surfaces of teeth and directly beneath free margins of gums; may apply prophylactic or preventive measures as the application of chemicals to the teeth for the prevention of dental caries; may assist in the administration of gas, ether and general anesthesia as applied to dentistry; may make instrumental examination of the teeth for cavities and chart the result of such examination and findings; and may prescribe or apply ordinary mouth washes of soothing character, and apply and use such antiseptic sprays or washes as the employer dentist may direct; but such dental hygienist shall not perform or undertake to perform any other dental operative procedure on the teeth or tissues of the human mouth. A dental hygienist shall not operate in any case except under the direct supervision of a licensed dentist, except that in any public institution, or public or parochial school, a dental hygienist may operate under the general supervision of a licensed dentist. Only one dental hygienist may be employed by any one licensed dentist; in any dental office or establishment in which more than one licensed dentist is practicing his profession, there shall be employed therein no more than one dental hygienist for each licensed and practicing dentist therein.

§ 3. Amendment.) Section 43-20-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-20-04. License Recorded—Fee.) Every holder of a license as a dental hygienist in this state, within thirty days after its issuance, shall file the same for record in the office of the

clerk of the district court in the county where the holder works. If said holder of the license changes the place of his employment to another county he shall file the license in the office of the clerk of the district court of such county before practicing therein. The clerk's fee for recording such license shall be fifty cents.

§ 4. Amendment.) Section 43-20-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-20-06. License—Fees—Display.) On or before January first of each year, every licensed dental hygienist shall pay to the board of dental examiners a registration fee as required by the board of dental examiners, and in default of such payment, the board, upon twenty days' notice, may revoke or suspend the license of the hygienist in default. The payment of such fee within such twenty-day period, with an additional sum of five dollars, shall excuse the default. The board may collect such fee by suit. Such licensed hygienist must display conspicuously at the place of his employment his annual registration license.

§ 5. Amendment.) Section 43-20-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-20-07. Dental Hygienists from Other States.) Any dental hygienist duly licensed to practice as such in another state, and who is of good moral character and desirous of removing to this state, and deposits with the board of dental examiners a license from the examining board of the state in which he is licensed, certifying to the fact of his being licensed, and a letter from the secretary of the state dental association, or the secretary of the state dental hygienists association or organization, of such state, certifying that he is of good moral character and professional attainments, may upon the payment of a fee of thirty-five dollars, in the discretion of the board, and upon the satisfactory passing of such examinations as the said board shall deem necessary and proper, be granted a license to practice in this state. The board may, however, dispense with examining such an applicant if the state in which the applicant was previously licensed grants reciprocity to dental hygienists licensed in the state of North Dakota.

Approved February 15, 1967.

CHAPTER 354

H. B. No. 718

(Wagner, Boustead, Saugstad, Brown)

LICENSING OF REAL ESTATE SALESMEN AND BROKERS

AN ACT

To amend and reenact sections 43-23-01, 43-23-04, subsection 2 of section 43-23-07, sections 43-23-08, and 43-23-13 of the North Dakota Century Code; and to create and enact subdivision g of subsection 1 of section 43-23-11 and subsection 9 of section 43-23-13 of the North Dakota Century Code, relating to the North Dakota real estate commission and the licensing of brokers and salesmen.

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

§ 1. **Amendment.)** Section 43-23-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-23-01. Real Estate Commission—Members.) The state real estate commission shall consist of five members, three of whom shall be active real estate brokers, appointed by the governor. The commission shall organize by the election of a chairman.

§ 2. **Amendment.)** Section 43-23-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-23-04. Commission — Compensation.) The members of the commission shall receive twenty-five dollars for each day actually engaged in the service of the commission and shall be paid actual and necessary traveling expenses to be paid only from the fund derived from fees collected in the administration of this chapter and no part thereof shall be paid out of the state treasury.

§ 3. **Amendment.)** Subsection 2 of section 43-23-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

*2. Nor shall this chapter be construed to include an attorney at law, admitted to practice in North Dakota handling sales of real estate in the course of estate or guardianship administration in county court, or trust administration, bankruptcy proceedings, receiverships,

*Note: Section 3 of chapter 355, 1967 S.L., amended section 43-23-07 although no amendments were made to subsection 2 of section 43-23-07.

or like actions subject to approval by a court of competent jurisdiction, or sales of real estate arising in the usual course of the practice of law; nor shall this chapter apply to any person selling real estate as an auctioneer, provided such sale is advertised as a bona fide public auction; nor shall this chapter apply to any bank or trust company or any of its officers or employees in the performance of their duties as an officer or employee of any such bank or trust company;

§ 4. Amendment.) Section 43-23-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

***43-23-08. License Standards.)** Licenses shall be granted only to persons who bear a good reputation for honesty, truthfulness and fair dealing and who are competent to transact the business of a real estate broker or a real estate salesman in such manner as to safeguard the interest of the public, and whose real estate license has not been revoked in this or any other state within two years prior to date of application. To determine the competency of applicants, the commission shall prescribe and hold examinations at designated times and places.

***Note:** Section 4 of chapter 355, 1967 S.L., also amended section 43-23-08.

§ 5. Amendment.) Section 43-23-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

***43-23-13. Fees.)** Fees for real estate brokers and real estate salesmen shall be as follows:

1. A fee of thirty-five dollars shall accompany an application for a real estate broker's license.
2. For each license as real estate broker, issued to a member of a partnership, association, or officer of a corporation other than the member or officer named in the license issued to such partnership, association, or corporation, there shall be a fee of thirty dollars.
3. A fee of thirty dollars shall accompany an application for a real estate salesman's license.
4. It shall be the duty of all persons, licensed to practice as a real estate broker or salesman, to register annually with the commission and to pay for each such annual

***Note:** Section 9 of chapter 355, 1967 S.L., also amended section 43-23-13.

registration as a real estate broker, the sum of thirty dollars and pay for such each annual registration as a real estate salesman, the sum of twenty dollars. Said application, for renewal of real estate broker's or salesman's license, shall be made to the commission annually no later than December thirty-first of each succeeding year.

5. For each additional office or place of business, there shall be an annual fee of five dollars.
6. For each change of office or place of business, there shall be a fee of five dollars.
7. For each duplicate or transfer of salesman's license, a fee of five dollars.
8. For each duplicate license, where the original license is lost or destroyed and affidavit made thereof, a fee of two dollars.

§ 6.) Subdivision g of subsection 1 of section 43-23-11 of the North Dakota Century Code is hereby created and enacted to read as follows:

- g. Where licensee has persistently followed a course of conduct in violation of any of the provisions of the code of ethics as adopted by the commission.

§ 7.) Subsection 9 of section 43-23-13 of the North Dakota Century Code is hereby created and enacted to read as follows:

9. For each additional test given to an applicant, before a license is issued, a fee of ten dollars for a broker's test and a fee of five dollars for a salesman's test.

Approved March 14, 1967.

CHAPTER 355

H. B. No. 772

(Fossum, Freeman, Saugstad, Wagner, Boustead)

LICENSING OF MORTGAGE BROKERS

AN ACT

To create and enact subsection 4 of section 43-23-06 and to amend and reenact section 43-23-05, subsection 3 of section 43-23-06, sections 43-23-07, 43-23-08, 43-23-09, 43-23-10, 43-23-11, 43-23-12, 43-23-13, and 43-23-14 of the North Dakota Century Code, relating to licensing real estate mortgage brokers.

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

§ 1. **Amendment.)** Section 43-23-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-23-05. Real Estate License Required.) No person shall act as a real estate broker, real estate salesman, or mortgage broker or advertise or assume to act as such real estate broker, real estate salesman, or mortgage broker without a license issued by the real estate commission. No person shall be entitled to collect any fees, compensation or commission as a real estate broker, real estate salesman, or mortgage broker without having first complied with the provisions of this chapter. No copartnership, association, or corporation shall be granted a license, unless every member or officer of such copartnership, association, or corporation actually engaged as a real estate broker, real estate salesman, or mortgage broker as defined herein, shall hold a license as a real estate broker, and unless every employee who acts as a real estate salesman or mortgage broker for such copartnership, association, or corporation shall hold a license as a real estate salesman or mortgage broker.

§ 2. **Amendment.)** Subsection 3 of section 43-23-06 of the North Dakota Century Code is hereby amended and reenacted and subsection 4 of section 43-23-06 of the North Dakota Century Code is hereby created and enacted to read as follows:

3. A single act performed, or isolated transactions for a commission or valuable consideration in the buying or selling real estate or mortgages of or for another, or offering for another to buy or sell, or exchange real estate, shall not constitute the person, firm, partnership, copartnership, association, or corporation performing, offering, or attempting to

perform any of the acts enumerated herein, a real estate broker, a real estate salesman, or a mortgage broker within the meaning of the chapter.

4. A mortgage broker within the meaning of this chapter is any person, firm, partnership, copartnership, association, or corporation other than a licensed real estate broker, bank or trust company, savings and loan association, insurance company, or state or federal agency and their employees, who for compensation or valuable consideration sell or offer for sale, buy or offer to buy, or negotiate the purchase or sale or exchange of mortgages upon real estate for others, as whole or partial vocation. The term "mortgages" as used in this chapter shall exclude any leasehold interests.

§ 3. Amendment.) Section 43-23-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-23-07. Real Estate Brokers or Salesmen, or Mortgage Brokers—Exceptions.) The term "real estate broker", "real estate salesman", or "mortgage broker" shall not be held to include any person, partnership, association, or corporation, who as a bona fide owner or lessor, shall perform any of the aforesaid acts:

1. With reference to property owner, or leased by them, nor shall it apply to the regular employees thereof, where such acts are performed in the regular course of, or as an incident to the management of such property and the investment therein;
- *2. Nor shall this chapter be construed to include an attorney at law, admitted to practice in North Dakota, nor shall this chapter apply to any person selling real estate as an auctioneer, provided such sale is advertised as a bona fide public auction; nor shall this chapter apply to any bank or trust company or any of its officers or employees in the performance of their duties as an officer or employee of any such bank or trust company;
3. Nor to any person holding in good faith a duly executed power of attorney from the owner, authorizing the final consummation and execution for the sale, purchase, leasing or exchange of real estate when such acts are not of a recurrent nature and done with the intention of evading this section;

*Note: Subsection 2 of section 43-23-07 was amended by section 3 of chapter 354, 1967 S.L. Subsection 2 of section 43-23-07 as contained in this chapter (chapter 355) was not amended but was carried only for the purpose of amending other portions of section 43-23-07.

4. Nor to the acts of any person while acting as a receiver, trustee, administrator, executor, guardian, or under court order, or while acting under authority of a deed or trust or will;
5. Nor shall this chapter apply to public officers while performing their duties as such.

§ 4. **Amendment.)** Section 43-23-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

***43-23-08. License Standards.)** Licenses shall be granted only to persons who bear a good reputation for honesty, truthfulness, and fair dealing and who are competent to transact the business of a real estate broker, a real estate salesman, or mortgage broker in such manner as to safeguard the interest of the public, and whose real estate license or mortgage broker license has not been revoked in this or any other state within two years prior to date of application.

§ 5. **Amendment.)** Section 43-23-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-23-09. License Application—Bond.) 1. Every application for a real estate broker's license, a real estate salesman's license, or a mortgage broker's license shall be in writing upon blanks prepared by the commission and shall contain such data and information as the commission may require.

2. The applicant, broker, or salesman, shall file with application a surety bond issued by an insurer authorized to transact business in North Dakota. The bond shall be in the amount of one thousand dollars for a salesman and two thousand dollars for a broker, with the state real estate commission as obligee, conditioned for the prompt payment to the person entitled thereto of any amounts received by the real estate broker, salesman, or mortgage broker or to protect any person from loss resulting from fraud or dishonesty by the applicant in connection with his real estate transactions. The bond shall remain operative for the period of the license.

§ 6. **Amendment.)** Section 43-23-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-23-10. Nonresident Brokers — Reciprocity — Consent to Service.) A nonresident broker regularly engaged in the real estate business as a vocation, or a mortgage broker regularly

***Note:** Section 4 of chapter 354, 1967 S.L., also amended section 43-23-08.

engaged in the mortgage business as a vocation, and who maintains a definite place of business and is licensed in some other state, which offers the same privileges to the licensed brokers of this state, shall not be required to maintain a place of business within this state. The commission shall recognize the license issued to a real estate broker or mortgage broker by another state as satisfactorily qualifying him for license as a broker, provided that said nonresident broker has qualified for license in his own state and also that said other state permits licenses to be issued to licensed brokers in this state. Every nonresident applicant shall file an irrevocable consent that suits and actions may be commenced against such applicant in the proper court of any county of the state in which a cause of action may arise, in which the plaintiff may reside, by the service of any process or pleading authorized by the laws of this state, on any member of the commission, or the secretary-treasurer, said consent stipulating and agreeing that such service of such process or pleading shall be taken and held in all courts to be as valid and binding as if due service had been made upon said applicant in this state. Said consent shall be duly acknowledged, and if made by a corporation, shall be authenticated by the seal of such corporation. Any service of process or pleading shall be by duplicate copies, one of which shall be filed in the office of the commission and the other immediately forwarded by registered or certified mail to the last known main office of the applicant against whom said process or pleading is directed, and no default in any such proceedings or action shall be taken except upon affidavit or certificate of the commission or the secretary-treasurer, that a copy of said process or pleading was mailed to the defendant as herein required, and no judgment by default shall be taken in any such action or proceeding until after thirty days from the date of mailing of such process or pleading to the nonresident defendant.

§ 7. **Amendment.**) Section 43-23-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-23-11. License Refusal—Revocation—Hearing—Appeal.)

1. The commission shall have full power to refuse a license for cause, or to revoke or suspend a license where the licensee, or proposed licensee in performing or attempting to perform any of the acts mentioned herein, shall have
 - a. Willfully violated any provisions of this chapter, or
 - b. Been guilty of any fraudulent act or practice in connection with the sale of real estate or mortgages as a broker or salesman, or

- c. Pursued a continued and flagrant course of misrepresentation in the sale of real estate or mortgages as a broker or salesman, or
- d. Acted for more than one party in a real estate or mortgage transaction without the knowledge of all parties for whom he acts, or
- e. Failed to remit and account for any moneys coming into his possession which belong to others, or subsequent to the effective date of this chapter commingled moneys belonging to others with his own funds, or
- f. Been convicted in a court of competent jurisdiction of this or any other state of forgery, embezzlement, obtaining money under false pretenses, extortion, conspiracy to defraud, or other like offense.

2. No license shall be revoked or refused except after hearing before the board upon notice of not less than twenty days, with a copy of the charges for revocation, or the reasons for refusal having been duly served upon the applicant or licensee in the same manner as provided by law for the service of a summons in civil actions in the district court, and then only if the charges or reasons for refusal are sustained. An appeal from the decision of the commission may be taken to the district court of the county where the person whose license is revoked or refused resides in the manner provided by law and the rules of practice and procedure adopted by the supreme court.

§ 8. **Amendment.)** Section 43-23-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-23-12. Broker's Place of Business—License of Employed Salesman.) 1. Every person, partnership, association, or corporation licensed as a real estate broker or mortgage broker shall be required to have and maintain a definite place of business within this state, for the transaction of real estate or mortgage broker business, or such business and any other business conducted by him. The certificate of registration as broker and the certificate of each real estate salesman or mortgage broker employed by such broker shall be prominently displayed in said office. The said place of business shall be designated in the license, and no license issued under the authority of this chapter shall authorize the licensee to transact business at any other address. In case of removal from the designated address, the licensee shall make application to the commission before said removal or within ten days after said removal, designating the new location of such office,

whereupon the commission shall forthwith issue a new license for the new location for the unexpired period. The broker's home may qualify as such place of business.

2. All licenses issued to real estate salesmen or mortgage brokers shall designate the employer of such salesmen or brokers. Prompt notice in writing, within ten days, shall be given to the commission by any real estate salesman or mortgage broker of a change of employer, and of the name of the licensed broker into whose employ the salesman or broker is about to enter, and a new license shall thereupon be issued by the commission to such salesman or broker for the unexpired term of the original license, upon the return to the commission of the license previously issued. The change of employer or employment by any licensed real estate salesman or mortgage broker, without notice to the commission as aforesaid, shall automatically cancel the license to him theretofore issued. Upon termination of a real estate salesman's or broker's employment, the broker employer, shall forthwith return the salesman's license or mortgage broker's license to the commission for cancellation. It shall be unlawful for any real estate salesman or mortgage broker to perform any of the acts contemplated by this chapter either directly or indirectly after his employment has been terminated and license as a salesman or mortgage broker has been returned for cancellation, until said license has been reissued by the commission.

§ 9. Amendment.) Section 43-23-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

***43-23-13. Fees.)** Fees for real estate brokers, mortgage brokers and real estate salesmen shall be as follows:

1. A fee of twenty-five dollars shall accompany an application for a real estate broker's or mortgage broker's license.
2. For each license as real estate broker or mortgage broker, issued to a member of a partnership, association, or officer of a corporation other than the member or officer named in the license issued to such partnership, association, or corporation, there shall be a fee of twenty dollars.
3. A fee of twenty dollars shall accompany an application for a real estate salesman's license.
4. It shall be the duty of all persons, licensed to practice as a real estate broker, or salesman or mortgage broker,

***Note:** Section 5 of chapter 354, 1967 S.L., also amended section 43-23-13.

to register annually with the commission and to pay for each such annual registration as a real estate broker or mortgage broker, the sum of twenty dollars and pay for such each annual registration as a real estate salesman, the sum of ten dollars. Said application, for renewal of real estate broker's, salesman's, or mortgage broker's license, shall be made to the commission annually no later than December thirty-first of each succeeding year.

5. For each additional office or place of business, there shall be an annual fee of five dollars.
6. For each change of office or place of business, there shall be a fee of five dollars.
7. For each duplicate or transfer of salesman's license, a fee of five dollars.
8. For each duplicate license, where the original license is lost or destroyed and affidavit made thereof, a fee of two dollars.

§ 10. Amendment.) Section 43-23-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-23-14. Fund Handling by Broker.) Every real estate broker or mortgage broker as herein defined shall remit immediately to his principal all money received by him belonging to his principal, except where by the terms of his employment he is permitted to retain possession of such money until the final settlement and consummation of such transaction, in which event he shall immediately deposit said money in a bank in a special or trust account and such money shall not be used by such real estate broker or mortgage broker, except in connection with said transaction.

Approved February 24, 1967.

CHAPTER 356

S. B. No. 237
(Robinson, Roen, Morgan)

UNLAWFUL PRACTICE OF VETERINARY MEDICINE

AN ACT

To amend and reenact section 43-29-17 of the North Dakota Century Code, relating to the unlawful practice of veterinary medicine, providing for violations thereof to be a misdemeanor and in addition thereto providing for the civil remedy of injunction to restrain and enjoin violations thereof.

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

§ 1. **Amendment.**) Section 43-29-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-29-17. Unlawful Practice of Veterinary Medicine—Misdemeanor—Penalty—Civil Remedy.) 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. In addition to the criminal penalty provided the civil remedy of injunction shall be available to restrain and enjoin violations of any provisions of this chapter without proof of actual damages sustained by any person, upon application and unanimous vote of all members of the state board of veterinary medical examiners.

Approved March 3, 1967.

CHAPTER 357

S. B. No. 190

(Longmire, Lowe, Larsen)

LICENSING AND REGULATION OF PSYCHOLOGISTS

AN ACT

Relating to the profession of psychology, providing for the licensing and regulation of psychologists, and creating a state board of examiners, prescribing its powers and duties, and providing penalties for violations.

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

§ 1. Definitions.)

1. "Board" shall mean the North Dakota state board of psychologist examiners.
2. "Psychologist" shall mean a person who holds himself out to the public by any title or description of services representing himself as a psychologist which incorporates the word "psychological", "psychologist" or "psychology", or a person who describes himself as above and, under such title or description, offers to render or renders services involving the application of principles, methods, and procedures of the science and profession of psychology to persons for compensation or other personal gain.
3. "Psychology" shall mean the application of established principles of thinking, learning, motivation, perception and emotional relationships to problems of personnel evaluation, group relations, and behavior adjustment by persons trained in psychology. The application of said principles includes, but is not restricted to, counseling, and behavior modification with persons or groups with adjustment problems in the areas of work, family, school, and personal relationships; measuring and testing of personality, intelligence, aptitudes, emotions, public opinion, attitudes, and skills, and doing research on problems relating to human behavior.
4. "School or college" means any university or other institution of higher learning that is accredited by a regional accrediting association, offering a full-time graduate course of study in psychology.

§ 2. State Board of Psychologists Examiners—How Appointed—Qualifications.) The governor shall appoint a state board of psychologist examiners consisting of five members, each of whom shall have the following qualifications:

1. Be a citizen of the United States.
2. Be a resident of this state.
3. After the first five appointments, shall be a licensed psychologist under this chapter.
4. Has, at least five years prior to appointment, received a doctorate degree in psychology from a school or college as defined in this chapter.
5. Has been actively engaged in the practice or teaching or research of psychology for a period of at least five years.
6. As to at least one member, is currently engaged primarily in rendering service in psychology and as to at least one member, is engaged primarily in teaching, training or research in psychology.

At least thirty days before any appointment is to be made, the North Dakota psychological association shall recommend five persons to the governor for such appointment.

§ 3. Tenure of Members—Vacancies and Oath of Office.) After the first five appointments the term of office of each member of the board shall be three years, and until his successor is appointed and qualified. The terms of the first members of the board shall expire as follows: one member, June 30, 1968; two members June 30, 1969; and two members June 30, 1970. The governor shall fill all vacancies by appointment but in case of a vacancy before the expiration of a term, the appointment shall be for the residue of the term only. A person appointed to the board shall qualify by taking the oath required of civil officers.

§ 4. Removal of Members.) The governor may remove any member of the board for unprofessional conduct, incompetency or neglect of duty after giving such member a written statement of the reasons for removal and after such member has had an opportunity to be heard thereon.

§ 5. Compensation of Members—Expenses of Board and Members Thereof.) Each member of the board shall serve without compensation but he shall receive such mileage and travel expenses while engaged in the performance of the duties of his office as is provided in section 54-06-09. The secretary of the board shall receive such salary or other compensation, and such allowance for clerical and other expenses of the board, as the board shall determine.

§ 6. Officers of the Board.) The board shall elect annually a president and vice president from its own number and a secretary who need not be a member of the board.

§ 7. Meetings of Board—Seal of Board.) The board shall hold at least one regular meeting each year. Additional meetings may be held upon call of the president or at the written request of the governor or of any two members of the board. The meetings shall be held at such places as the board may designate. The board shall have a seal.

§ 8. Rules and Regulations.) The board may from time to time adopt such rules and regulations not inconsistent with law, as may be necessary to enable it to carry into effect the provisions of this chapter, which may include a code of ethics for psychologists in the state.

§ 9. Examination of Qualifications of Applicants.) The board shall examine for, deny, approve, revoke, suspend and renew the licensing of applicants as provided under this chapter.

§ 10. Power of Board to Administer Oaths—Conduct Hearings—Summon Witnesses—Take Testimony.) The members of the board and the secretary may administer oaths. The board may summon witnesses as provided in section 43-17-09 and 43-17-10 and take testimony in all matters relating to its duties, including the enforcement of the provisions and purposes of this chapter and the rules and regulations adopted by the board.

§ 11. Annual Reports.) Each year, the board shall transmit to the governor, with a copy thereof to the secretary of state and to the North Dakota psychological association, a full report of all activities under this chapter, together with a report of all receipts and disbursements.

§ 12. Application and License Fee.) The application fee for licensing by written and oral examination and by reciprocity shall be determined by regulation of the board. No fee shall be refundable in whole or in part except for failure of the board to hold examinations at the time originally announced, in which event the entire fee shall be refunded upon demand by the applicant.

§ 13. Annual License and Fee.) On or before January first of each year, every licensed psychologist in the state shall pay to the secretary of the board an annual license fee to be determined by regulation of the board not to exceed one hundred dollars. The secretary of the board, upon payment of the annual license fee by a person licensed under this chapter, shall issue a certificate of annual license. No person shall hold himself out

as a licensed psychologist until the annual license fee has been paid. The violation of this section shall be cause for revocation of his license by the board. The board shall annually mail a renewal notice to all licensed psychologists.

§ 14. Payment of Delinquent License Fees—Reinstatement.)

Any person who has been a licensed psychologist in this state under the provisions of this chapter, and who has had his license revoked because of his failure to pay the annual license fee, shall be reinstated and his license renewed by his paying to the secretary of the board the amount of the annual license fees in which he is then in default.

§ 15. Deposit and Disbursement of Fees.) All fees and moneys received under the provisions of this chapter shall be deposited with and held by the state treasurer and shall be subject to disbursement on warrants drawn against such fund by the president and secretary of the board for proper expenses incurred.

§ 16. Board to Keep Records.)

1. The board shall keep a record of its proceedings and a register of all applicants for licensing which shall show:
 - a. The name, age and residence of each applicant;
 - b. The date of the application;
 - c. The place of business of such applicant;
 - d. A summary of the educational and other qualifications of such applicants;
 - e. Whether or not an examination was required;
 - f. Whether or not license was granted;
 - g. The date of the action of the board;
 - h. Such other information as may be deemed necessary or advisable by the board in aid of the above requirements.
2. The records of the board shall be public records and evidence of the proceedings of the board set forth therein, and a transcript thereof, duly certified by the secretary of the board, bearing the seal of the board, shall be admissible in evidence with the same force and effect as if the original were produced.

§ 17. License Required.) No person shall hold himself out as a psychologist in this state after July 1, 1968, unless he has obtained from the board a license to do so under the provisions of this chapter.

§ 18. Licensing of Psychologists Without Examination — Qualifications of Applicants.)

1. For a period of one year from the effective date of this chapter, the board shall waive examination of a candidate for licensing if it appears that such action is in the public interest, and it shall issue a license upon payment of the required fee, to any applicant who makes application and furnishes evidence satisfactory to the board that he:
 - a. Is of good moral character;
 - b. Is not found by the board to be engaged in unethical practices;
 - c. Has received a doctorate in psychology from an accredited school or college or has training deemed equivalent by the board in both subject matter and extent of training;
 - d. Is a citizen of the United States or intends to become a citizen and files an affidavit as to such with the board.
2. At its discretion, the board may at any time issue a license without examination, upon payment of the required fee, to any diplomate of the American board of examiners in professional psychology.

§ 19. Licensing of Psychologists from Other States.) Upon application and accompanied by the required fee, the board may, without written or oral examination, issue a license to any person who at the time of application furnishes evidence satisfactory to the board that he is licensed or certified as a psychologist by a similar board of another state whose standards, in the opinion of the board, are not lower than those required by this chapter.

§ 20. Licensing—Written and Oral Examination—Qualifications of Applicants.) The board shall issue a license as a psychologist to each applicant who shall file an application upon a form and in such a manner as the board prescribes, accompanied by the required fee, and who furnishes evidence to the board that he:

1. Is of good moral character;
2. Is not found by the board to be engaged in unethical practices;
3. Has received from an accredited school or college as defined by this chapter a doctorate, with a program of studies substantially psychological in nature;

4. Is a citizen of the United States or intends to become a citizen and files an affidavit as to such with the board;
5. Demonstrates professional competence as shown by passing such examinations, written or oral, or both, as the board deems necessary; and
6. Has not, within the preceding six months, failed an examination given.

§ 21. Consideration of Application and Notice to Applicant.) Upon investigation of the application and other evidence submitted, the board shall, not less than thirty days prior to the examination, notify each applicant that the application and evidence submitted for licensing is satisfactory and accepted, or unsatisfactory and rejected. If rejected, said notice shall state the reasons for such rejection.

§ 22. Time and Place of Examination.) The time and place of examination shall be designated by the board and notice thereof shall be given to each applicant. Such examinations shall be given annually and at such other times as in the opinion of the board the number of applicants warrants.

§ 23. Scope and Grading of Examination.) The board shall determine the subject and scope of specialized psychological areas and techniques for examination. Written examinations may be supplemented by such oral examinations as the board may determine. The board shall determine an acceptable level of performance for each examination and a majority decision of the board is required for the issuing of a license. To insure impartiality, the written examination shall be identified by numbers and no paper shall be marked in the name of any applicant, but shall be anonymously graded by the board.

§ 24. Notice to Applicant of Examination Results and Right to Reexamination.) The board shall state in writing its reason for refusal of a license to any applicant who has been so denied. An applicant who fails his examination may be reexamined at a subsequent examination upon again paying the required examination fee.

§ 25. Retention of Examination.) The board shall keep the written examination papers and an accurate recording of the questions and answers relating to the oral examinations and the grade assigned to each answer thereof as a part of its records for at least two years subsequent to the date of the examination.

§ 26. Issuance and Display of License.) The board shall be the sole agency empowered to examine competence in the practice of psychology. Such license certificate shall show the

full name of the licensee, have a serial number and be signed by the president of the board and attested by the secretary under the board's adopted seal. The license issued by the board under the provisions of this chapter shall be prominently displayed at the principal place of business where the psychologist practices.

§ 27. Denial — Revocation — Or Suspension of License — Grounds.) The board, after notice and hearing and by an affirmative vote of at least three of its five members, shall withhold, deny, revoke, or suspend any psychologist license issued or applied for in accordance with the provisions of this chapter, or otherwise discipline a licensed psychologist, upon proof that the applicant or licensed psychologist:

1. Has been convicted of a felony or any offense involving moral turpitude, the record of conviction being conclusive evidence thereof;
2. Is using any narcotic or any alcoholic beverage to an extent or in a manner dangerous to himself, any other person, or the public, or to an extent that such use impairs his ability to perform the work of a professional psychologist with safety to the public;
3. Has impersonated another person holding a psychology license or allowed another person to use his license;
4. Has used fraud or deception in applying for a license or in taking an examination provided for in this chapter;
5. Has allowed his name or license issued under this chapter to be used in connection with any person or persons who perform psychological services outside of the area of their training, experience or competence;
6. Is legally adjudicated insane or mentally incompetent, the record of such adjudication being conclusive evidence thereof;
7. Has engaged in any form of unethical conduct as defined in "Ethical Standards for Psychologists" as adopted and published by the American psychological association, 1953, and as revised;
8. Has become grossly negligent in the practice of his profession;
9. Has willfully or negligently violated any of the provisions of this chapter.

The suspension by the board of the license of a psychologist shall be for a period not exceeding one year. A person who has been refused a license, or whose license has been revoked,

under the provisions of this section, may reapply for licensing after two years have elapsed from the date of such denial or revocation.

§ 28. Notice—Hearing—Findings of Fact and Order.)

1. The board shall not withhold, deny, revoke or suspend any psychologist license for any cause listed in this chapter unless the person involved has been given at least thirty days' notice in writing by certified or registered mail, with return receipt demanded, of the charges against him and time and place of a public hearing by the board. The psychologist involved is entitled to be heard in his defense in person and with right of counsel and may produce testimony and may testify in his own behalf. A record of the hearing shall be taken and preserved. The hearing may be adjourned from time to time. If the psychologist involved fails or refuses to appear, the board may proceed to hear and determine the charges in his absence.
2. The board shall make its findings of fact and order and a copy of such findings and order shall be mailed to the psychologist involved by registered or certified mail with a return receipt requested. Such order shall be effective upon mailing.

§ 29. Appeal from Decision of Board.) An appeal from the final decision of the board in any matter covered by this chapter may be taken to the district court of the county in which the decision was made in accordance with the provisions of chapter 28-32 of the title Judicial Procedure, Civil.

§ 30. Persons Exempt from the Provisions of This Chapter.) The provisions of this chapter shall not apply to the following:

1. Any person in the employ of any federal, state, county or municipal agency, or other political subdivision, or any nonprofit corporation or educational institution presently chartered by this state, insofar as the activities and services of such person are a part of the duties of his office or position with such agency, nonprofit corporation or institution. This exemption shall not be available or effective after July 1, 1970, provided, however, that such exemption period shall be extended by the board in individual cases where hardship or other good cause is shown by the agency, nonprofit corporation or institution covered hereby, or where the person affected hereby has received from a school or college as defined herein, a master's degree in psychology and his activities and services with such agency, nonprofit corporation or

institution are performed under the supervision of a licensed psychologist.

2. A student, intern or resident in psychology pursuing a course of study in psychology at a school or college as defined in this chapter if such activities and services constitute a part of his supervised course of study.
3. A nonresident, duly licensed or certified in the state of his residence who does not practice psychology in this state for a period of more than thirty days in any calendar year.
4. Lecturers from any school or college who utilize their academic or research title when lecturing to institutions or organizations.

§ 31. Violation and Penalties.) Any person who violates any of the provisions of this chapter shall be guilty of a misdemeanor punishable by imprisonment in the county jail for not more than six months, or by a fine of not more than five hundred dollars, or by both such imprisonment and fine. Each violation shall be deemed a separate offense. In addition to the criminal penalties provided the civil remedy of injunction shall be available to restrain and enjoin violations of any provisions of this chapter without proof of actual damages sustained by any person.

§ 32. Drugs—Medicine.) Nothing in this chapter shall be construed as permitting psychologists licensed under this chapter to administer or prescribe drugs, or in any manner engage in the practice of medicine as defined by the laws of this state.

Approved March 13, 1967.

OFFICES AND OFFICERS

CHAPTER 358

H. B. No. 646

(Metzger, Burke, Austin, Kuehn)

APPOINTMENT OF DEPUTY LABOR COMMISSIONER

AN ACT

To amend and reenact section 44-03-01 of the North Dakota Century Code, allowing the commissioner of labor to appoint a deputy commissioner.

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

§ 1. **Amendment.)** Section 44-03-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

44-03-01. Deputies May Be Appointed by Certain Officers.) The secretary of state, state auditor, state treasurer, superintendent of public instruction, commissioner of insurance, commissioner of agriculture, commissioner of labor, district assessor, and city assessor each may appoint a deputy for whose acts as such he shall be responsible. Each officer required to give a bond may require a bond from any deputy appointed by him. Any such bond shall be in the penal sum of not more than half the penal sum of the appointing officer's own bond and may be retained by the officer for his own protection. Such appointment shall be in writing and shall be revocable in writing at the pleasure of the principal, and such appointment and revocation shall be filed as the bond and oath of the principal are filed.

Approved March 10, 1967.

CHAPTER 359

S. B. No. 313
(Decker, Hernet, Wilhite)

PUBLIC CONTRACTS

AN ACT

To amend and reenact section 44-08-01 of the North Dakota Century Code, relating to public contracts for the purchase of goods, supplies and equipment.

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

§ 1. **Amendment.**) Section 44-08-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

44-08-01. Preference to North Dakota Bidders and Sellers.) The department of accounts and purchases, or any board, commission, city council, board of city commissioners, board of education, board of park commissioners, school board, board of village trustees, or any other governing body of any political subdivision of the state, or of any state institution, in purchasing any goods, merchandise, supplies, or equipment of any kind, shall give preference to bidders or sellers resident in North Dakota. The preference shall be equal to the preference given or required by the state of the nonresident bidder. In specifying or purchasing goods, merchandise, supplies, or equipment to be purchased, such board shall not specify any trade-marked or copyrighted brand or name, nor the product of any one manufacturer, nor any patented product, apparatus, device, or equipment, where the same will prevent proper competition, unless bidders also are asked for bids or offers upon other articles of like nature, utility, and merit.

Approved March 1, 1967.

CHAPTER 360

S. B. No. 191

(Larson(32))

SEALED BIDS REQUIRED OF POLITICAL SUBDIVISIONS

AN ACT

To create and enact section 44-08-01.1 of the North Dakota Century Code, relating to the requiring of political subdivisions to accept only sealed bids whenever bids are required by law or administrative decision.

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

§ 1.) Section 44-08-01.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

44-08-01.1. Bids To Be Sealed — Designation of Time and Place for Opening.) Notwithstanding any other provisions of the North Dakota Century Code, the governing bodies of the political subdivisions of the state of North Dakota shall accept only sealed bids, whenever by law or administrative decision they are required to call for, advertise, or solicit bids for the purchase of personal property and equipment. Whenever a political subdivision of this state calls for, advertises, or solicits sealed bids it shall designate a time and place for the opening of such bids. If all of the bids are not rejected, the purchase shall be made from the bidder submitting the lowest and best bid meeting or exceeding the specifications called for.

Approved February 27, 1967.

PRINTING LAWS

CHAPTER 361

S. B. No. 164

(Larson (Burleigh), Sorlie, Ringsak)

OFFICIALS' NAMES ON PUBLIC DOCUMENTS

AN ACT

To prohibit state, county, and local officials from printing their names on public documents and publications in large size type.

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

§ 1. Unlawful for Public Officials to Place Name on Public Documents in Large Size Type—Penalty.) It shall be unlawful for any elected or appointed state, county, or local official to print his name, or cause his name to be printed, upon any envelope paid for by the state or its political subdivisions; or upon other public documents, reports, promulgated rules and regulations, or publications unless his name is printed in a smaller type than the printed name of the office, department, or agency as it appears on such material. The provisions of this Act shall not apply to the use of printed stocks of forms and supplies on hand at the effective date of this Act. Any person who shall violate 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 1, 1967.

PROPERTY

CHAPTER 362

S. B. No. 136
(Schultz, Redlin)

HOMESTEAD EXEMPTIONS

AN ACT

To amend and reenact subsection 1 of section 47-18-01 of the North Dakota Century Code, relating to homestead exemptions.

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

§ 1. Amendment.) Subsection 1 of section 47-18-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. If within a town plat, of not to exceed two acres of land upon which the claimant resides, and the improvements thereon, and not exceeding in value forty thousand dollars over and above liens or encumbrances or both.

Approved February 25, 1967.

CHAPTER 363

S. B. No. 98
(Longmire, Ringsak, Meschke)

UNIFORM GIFTS TO MINORS ACT

AN ACT

To amend and reenact sections 47-24-01, 47-24-02, 47-24-03, 47-24-04, 47-24-06, and 47-24-07 of the North Dakota Century Code, relating to the North Dakota Uniform Gifts to Minors Act.

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

§ 1. Amendment.) Section 47-24-01 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

47-24-01. Definitions.) In this chapter, unless the context otherwise requires;

1. "Adult" is a person who has attained the age of twenty-one years;
2. "Bank" is a bank, trust company, national banking association, savings bank, industrial bank, or other organization organized under title 6 of this Code, and any federal or state savings and loan or building and loan association or other organization organized under title 7 of this Code;
3. "Broker" is a person lawfully engaged in the business of effecting transactions in securities for the account of others. The term includes a bank which effects such transactions. The term also includes a person lawfully engaged in buying and selling securities for his own account, through a broker or otherwise, as a part of a regular business;
4. "Court" means the county court;
5. "Custodial property" includes:
 - a. All securities, life insurance policies, annuity contracts, and money under the supervision of the same custodian for the same minor as a consequence of a gift or gifts made to the minor in a manner prescribed in this chapter;
 - b. The income from the custodial property; and
 - c. The proceeds, immediate and remote, from the sale, exchange, conversion, investment, reinvestment, surrender, or other disposition of such securities, money, life insurance policies, annuity contracts, and income;
6. "Custodian" is a person so designated in a manner prescribed in this chapter; the term includes a successor custodian;
7. A "financial institution" is a bank, a federal savings and loan association, a savings institution chartered and supervised as a savings and loan or similar institution under federal law or the laws of a state or a federal credit union or a credit union chartered and supervised under the laws of a state; a "domestic financial institution" is one chartered and supervised under the laws of this state or chartered and supervised under federal law and having its principal office in this state; an "insured financial institution" is one, deposits (including a savings, share, certificate or deposit account) in which are, in whole or in part, insured by the federal deposit insurance corporation, or by the federal savings and loan insurance corporation;

8. "Guardian" of a minor means the general guardian, guardian, tutor or curator of his property or estate appointed or qualified by a court of this state or another state;
9. "Issuer" is a person who places or authorizes the placing of his name on a security, other than as a transfer agent, to evidence that it represents a share, participation or other interest in his property or in an enterprise or to evidence his duty or undertaking to perform an obligation evidenced by the security, or who becomes responsible for or in place of any such person;
10. "Legal representative" of a person is his executor or the administrator, general guardian, guardian, committee, conservator, tutor or curator of his property or estate;
11. "Life insurance policy or annuity contract" means a life insurance policy or annuity contract issued by an insurance company authorized to do business in this state on the life of a minor to whom a gift of the policy or contract is made in the manner prescribed in this chapter or on the life of a member of the minor's family;
12. "Member" of a "minor's family" means any of the minor's parents, grandparents, brothers, sisters, uncles and aunts, whether of the whole blood or the half blood, or by or through legal adoption;
13. "Minor" is a person who has not attained the age of twenty-one years;
14. "Security" includes any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest or participation in an oil, gas or mining title or lease or in payments out of production under such a title or lease, collateral trust certificate, transferable share, voting trust certificate or, in general, any interest or instrument commonly known as a security, or any certificate of interest or participation in, any temporary or interim certificate, receipt or certificate of deposit for, or any warrant or right to subscribe to or purchase, any of the foregoing. The term does not include a security of which the donor is the issuer. A security is in "registered form" when it specifies a person entitled to it or to the rights it evidences and its transfer may be registered upon books maintained for that purpose by or on behalf of the issuer;
15. "Transfer agent" is a person who acts as authenticating trustee, transfer agent, registrar or other agent for an

issuer in the registration of transfers of its securities or in the issue of new securities or in the cancellation of surrendered securities;

- 16. "Trust company" is a bank, corporation, or other legal entity authorized to exercise trust power.

§ 2. Amendment.) Section 47-24-02 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

47-24-02. Manner of Making Gift.) 1. An adult may, during his lifetime, make a gift of a security, a life insurance policy, or annuity contract, or money to a person who is a minor on the date of the gift:

- a. If the subject of the gift is a security in registered form, by registering it in the name of the donor, another adult or a trust company, followed in substance, by the words: "as custodian for..... (name of minor).....under the North Dakota Uniform Gifts to Minors Act."
- b. If the subject of the gift is a security not in registered form, by delivering it to an adult other than the donor or a trust company, accompanied by a statement of gift in the following form, in substance, signed by the donor and the person designated as custodian:

"Gift Under the North Dakota Uniform Gifts to Minors Act

I,(name of donor)..... hereby deliver to.....(name of custodian)..... as custodian for..... (name of minor).....under the North Dakota Uniform Gifts to Minors Act, the following security: (insert an appropriate description of the security or securities delivered sufficient to identify it or them.)

.....(signature of donor).....
.....(name of custodian)..... hereby acknowledges receipt of the above-described security as custodian for the above minor under the North Dakota Uniform Gifts to Minors Act.

Dated..... (signature of custodian).....".

- c. If the subject of the gift is money, by paying or delivering it to a broker or a financial institution for credit to an account in the name of the donor, another adult or a trust company, followed, in substance, by

the words: "as custodian for.....(name of minor).....under the North Dakota Uniform Gifts to Minors Act".

- d. If the subject of the gift is a life insurance policy or annuity contract, by causing the ownership of the policy or contract to be registered with the issuing insurance company in the name of the donor, another adult, or a trust company, followed in substance, by the words: "as custodian for.....(name of minor).....under the North Dakota Uniform Gifts to Minors Act".

2. Any gift made in a manner prescribed in this section may be made to only one minor and only one person may be the custodian.

3. A donor who makes a gift to a minor in a manner prescribed in subsection 1 shall promptly do all things within his power to put the subject of the gift in the possession and control of the custodian, but neither the donor's failure to comply with this subsection, nor his designation of an ineligible person as custodian, nor renunciation by the person designated as custodian affects the consummation of the gift.

§ 3. **Amendment.)** Section 47-24-03 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

47-24-03. Effect of Gift.) 1. A gift made in a manner prescribed in this chapter is irrevocable and conveys to the minor indefeasibly vested legal title to the security, life insurance policy, annuity contract or money given, but no guardian of the minor has any right, power, duty or authority with respect to the custodial property except as provided in this chapter.

2. By making a gift in a manner prescribed in this chapter, the donor incorporates in his gift all the provisions of this chapter and grants to the custodian, and to any issuer, transfer agent, bank, financial institution, life insurance company, broker or third person dealing with a person designated as custodian, the respective powers, rights and immunities provided in this chapter.

§ 4. **Amendment.)** Section 47-24-04 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

47-24-04. Duties and Powers of Custodian.) 1. The custodian shall collect, hold, manage, invest and reinvest the custodial property.

2. The custodian shall pay over to the minor for expenditure by him, or expend for the minor's benefit, so much of or all the custodial property as the custodian deems advisable for the support, maintenance, education and benefit of the minor in the manner, at the time or times, and to the extent that the custodian in his discretion deems suitable and proper, with or without court order, with or without regard to the duty of himself or of any other person to support the minor or his ability to do so, and with or without regard to any other income or property of the minor which may be applicable or available for any such purpose.

3. The court, on the petition of a parent or guardian of the minor or of the minor, if he has attained the age of fourteen years, may order the custodian to pay over to the minor for expenditure by him or to expend so much of or all the custodial property as is necessary for the minor's support, maintenance or education.

4. To the extent that the custodial property is not so expended, the custodian shall deliver or pay it over to the minor on his attaining the age of twenty-one years, or, if the minor dies before attaining the age of twenty-one years, he shall thereupon deliver or pay it over to the estate of the minor.

5. The custodian, notwithstanding statutes restricting investments by fiduciaries, shall invest and reinvest the custodial property as would a prudent man of discretion and intelligence who is seeking a reasonable income and the preservation of his capital, except that he may, in his discretion and without liability to the minor or his estate, retain a security given to the minor in a manner prescribed in this chapter or hold money so given in an account in the financial institution to which it was paid or delivered by the donor.

6. The custodian may sell, exchange, convert, surrender, or otherwise dispose of custodial property in the manner, at the time or times, for the price or prices and upon the terms he deems advisable. He may vote in person or by general or limited proxy a security which is custodial property. He may consent, directly or through a committee or other agent, to the reorganization, consolidation, merger, dissolution or liquidation of an issuer, a security of which is custodial property, and to the sale, lease, pledge or mortgage of any property by or to such an issuer, and to any other action by such an issuer. He may execute and deliver any and all instruments in writing which he deems advisable to carry out any of his powers as custodian.

7. The custodian shall register each security which is custodial property and in registered form in the name of the

custodian, followed, in substance, by the words: "as custodian for.....(name of minor).....under the North Dakota Uniform Gifts to Minors Act". The custodian shall hold all money which is custodial property in an account with a broker or in an insured financial institution in the name of the custodian, followed, in substance, by the words: "as cutodian for.....(name of minor).....under the North Dakota Uniform Gifts to Minors Act". The custodian shall keep all other custodial property separate and distinct from his own property in a manner to identify it clearly as custodial property.

8. The custodian shall keep records of all transactions with respect to the custodial property and make them available for inspection at reasonable intervals by a parent or legal representative of the minor or by the minor, if he has attained the age of fourteen years.

9. A custodian has and holds as powers in trust, with respect to the custodial property, in addition to the rights and powers provided in this chapter, all the rights and powers which a guardian has with respect to property not held as custodial property.

10. If the subject of the gift is a life insurance policy or annuity contract, the custodian:

- a. In his capacity as custodian, has all the incidents of ownership in the policy or contract to the same extent as if he were the owner, except that the designated beneficiary of any policy or contract on the life of the minor shall be the minor's estate and the designated beneficiary of any policy or contract on the life of a person other than the minor shall be the custodian as custodian for the minor for whom he is acting; and
- b. May pay premiums on the policy or contract out of the custodial property.

§ 5. Amendment.) Section 47-24-06 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

47-24-06. Exemption of Third Persons from Liability.) No issuer, transfer agent, bank, life insurance company, broker or other person or financial institution, acting on the instructions of or otherwise dealing with any person purporting to act as a donor or in the capacity of a custodian is responsible for determining whether the person designated as custodian by the purported donor or by the custodian or purporting to act as a custodian has been duly designated or whether any purchase,

sale or transfer to or by or any other act of any person purporting to act in the capacity of custodian is in accordance with or authorized by this chapter, or is obliged to inquire into the validity or propriety under this chapter of any instrument or instructions executed or given by a person purporting to act as a donor or in the capacity of a custodian, or is bound to see to the application by any person purporting to act in the capacity of a custodian of any money or other property paid or delivered to him. No issuer, transfer agent, bank, life insurance company, broker or other person or financial institution acting on any instrument of designation of a successor custodian, executed as provided in subsection 1 of section 47-24-07 of this chapter by a minor to whom a gift has been made in a manner prescribed in this chapter and who has attained the age of fourteen years, is responsible for determining whether the person designated by the minor as successor custodian has been duly designated, or is obliged to inquire into the validity or propriety under this chapter of the instrument of designation.

§ 6. Amendment.) Section 47-24-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

47-24-07. Resignation, Death or Removal of Custodian—Bond—Designation of Successor Custodian.) 1. Only an adult member of the minor's family, a guardian of the minor or a trust company is eligible to become successor custodian. A custodian may designate his successor by executing and dating an instrument of designation before a subscribing witness other than the successor; the instrument of designation may but need not contain the resignation of the custodian. If the custodian does not so designate his successor before he dies or becomes legally incapacitated, and the minor has attained the age of fourteen years, the minor may designate a successor custodian by executing an instrument of designation before a subscribing witness other than the successor. A successor custodian has all the rights, powers, duties and immunities of a custodian designated in a manner prescribed by this chapter;

2. The designation of a successor custodian as provided in subsection 1 takes effect as to each item of the custodial property when the custodian resigns, dies, or becomes legally incapacitated, and the custodian or his legal representative:

- a. Causes the item, if it is a security in registered form or a life insurance policy or annuity contract, to be registered, with the issuing insurance company in the case of a life insurance policy or annuity contract, in the name of the successor custodian followed, in substance, by the words:

“as custodian for.....(name of minor).....
under the North Dakota Uniform Gifts to Minors Act”;
and

- b. Delivers or causes to be delivered to the successor custodian any other item of the custodial property, together with the instrument of designation of the successor custodian or a true copy thereof and any additional instruments required for the transfer thereof to the successor custodian;

3. A custodian who executes an instrument of designation of his successor containing the custodian's resignation as provided in subsection 1 shall promptly do all things within his power to put each item of the custodial property in the possession and control of the successor custodian named in the instrument. The legal representative of a custodian who dies or becomes legally incapacitated shall promptly do all things within his power to put each item of the custodial property in the possession and control of the successor custodian named in an instrument of designation executed as provided in subsection 1 by the custodian or, if none, by the minor if he has no guardian and has attained the age of fourteen years, or in the possession and control of the guardian of the minor if he has a guardian. If the custodian has executed as provided in subsection 1 more than one instrument of designation, his legal representative shall treat the instrument dated on an earlier date as having been revoked by the instrument dated on a later date.

4. If a person designated as custodian or as successor custodian by the custodian as provided in subsection 1 is not eligible, dies, or becomes legally incapacitated before the minor attains the age of twenty-one years and if the minor has a guardian, the guardian of the minor shall be successor custodian. If the minor has no guardian and if no successor custodian who is eligible and has not died or become legally incapacitated has been designated as provided in subsection 1, a donor, his legal representative, the legal representative of the custodian or an adult member of the minor's family may petition the court for the designation of a successor custodian;

5. A donor, the legal representative of a donor, a successor custodian, an adult member of the minor's family, a guardian of the minor or the minor, if he has attained the age of fourteen years, may petition the court that, for cause shown in the petition, the custodian be removed and a successor custodian be designated or, in the alternative, that the custodian be required to give bond for the performance of his duties;

6. Upon the filing of a petition as provided in this section, the court shall grant an order, directed to the persons and re-

turnable on such notice as the court may require, to show cause why the relief prayed for in the petition should not be granted and, in due course, grant such relief as the court finds to be in the best interests of the minor.

Approved March 14, 1967.

PUBLIC BUILDINGS

CHAPTER 364

S. B. No. 388

(Hernett, Wenstrom, Ringsak, Chesrown, Longmire, Meschke)

CAPITOL GROUNDS PLANNING COMMISSION

AN ACT

To amend and reenact section 1 of chapter 314 of the 1965 Session Laws, relating to the capitol grounds planning commission and studies and plans for improvement in legislative facilities, use of assets of the capitol building fund, and providing for an appropriation.

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

§ 1. Amendment.) Section 1 of chapter 314 of the 1965 Session Laws is hereby amended and reenacted to read as follows:

§ 1. Capitol Grounds Planning Commission.) There is hereby created a planning commission to be known as "the capitol grounds planning commission" consisting of the governor as chairman and six other members selected biennially in a manner as herein provided. The president of the senate shall appoint three senators, and the speaker of the house of representatives shall appoint three representatives, as members, who, together with the governor, shall constitute the capitol grounds planning commission and serve for a term of two years. The planning commission shall function for the purpose of conferring with qualified consultants retained by it to select sites for buildings to be constructed on the capitol grounds and otherwise developing and modifying long-term plans for the development of the capitol grounds and performing such other duties as may be prescribed by law. The planning commission shall approve or disapprove the basic style and exterior construction of any building or facility constructed upon the capitol grounds. Legislative members of the planning commission shall be entitled to per diem payments and expenses in such amount and in the same manner as provided by law for members of the legislative research committee.

§ 2. Capitol Building Fund To Be Administered by the Capitol Grounds Planning Commission—Certain Funds Dedicated for Use to Construct Legislative Wing.) Notwithstanding any other provision of law, the capitol grounds planning com-

mission, acting through the state land commissioner and the state land department, shall have general powers to superintend the administration of the capitol building fund, its interest and income fund, and its investments and properties. It may cause any lands now held in such funds to be sold at market value, direct the conversion of any securities now held by such funds to cash, approve expenditures from such funds subject to law and legislative appropriations, and to do all other things necessary to carry out the intent and purposes of this section.

Provided further, all moneys and other property and the income therefrom in the capitol building fund, except as otherwise appropriated by section 3 of this Act or by other acts of the Fortieth Legislative Assembly, are hereby dedicated and reserved to the exclusive purpose of the construction of an addition to the legislative wing of the state capitol building, and the capitol grounds planning commission shall take necessary steps to accumulate and conserve the money and property and the income therefrom in the capitol building fund for such purpose.

§ 3. Appropriation and Study of Legislative Facilities.) There is hereby appropriated out of any moneys in the capitol building fund, not otherwise appropriated, the sum of \$30,000.00, or so much thereof as may be necessary, to the capitol grounds planning commission for the purpose of defraying the expenses of the commission and carrying out its duties during the biennium beginning July 1, 1967, and ending June 30, 1969. The capitol grounds planning commission shall conduct a study of legislative facilities and shall explore the feasibility of adapting additional space within the existing capitol building for use by the legislative assembly for committee rooms, office space and other legislative needs. If, in the opinion of the commission the provision of additional space within the capitol building is not feasible, practical, or that such space cannot reasonably be made available, it shall then prepare specific plans or alternative plans for a suitable wing or an addition to the legislative wing for the provision of sufficient space to reasonably meet the present and foreseeable future needs of the legislative assembly.

Approved March 14, 1967.

PUBLIC UTILITIES

CHAPTER 365

S. B. No. 259
(Holand, Chesrown)

FILING OF INSTRUMENTS BY TRANSMITTING UTILITIES

AN ACT

Relating to the filing by certain transmitting utilities of certain instruments required to be filed under the provisions of the Uniform Commercial Code.

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

§ 1. Definitions.) When used in this Act the term "transmitting utility" means persons, corporations or other legal entities, and lessees, trustees and receivers, now or hereafter operating, maintaining or controlling in this state equipment or facilities for the production, generation, transmission or distribution of electric, telegraph or telephone services, or the transmission or distribution of crude oil, gas, petroleum products, steam or water by pipe line.

§ 2. Financing Statements of a Transmitting Utility and Duration Thereof.) 1. Notwithstanding the provisions of sections 41-09-23, 41-09-40, 41-09-41 and 49-09-42, of the North Dakota Century Code, all filings required under the Uniform Commercial Code in order to perfect a security interest against the personal property or fixtures of a debtor transmitting utility shall be made and maintained only in the office of the secretary of state of North Dakota.

2. When the financing statement covers goods of a transmitting utility as herein defined which are or are to become fixtures, no description of the real estate to which such fixtures are or may become attached is required.

3. Filing of a financing statement against the property of a transmitting utility is effective until five years after the maturity date contained therein in the case of personal property and until fifteen years after the maturity date in the case of fixtures annexed to real property, or if no maturity date is contained therein, until released or terminated.

§ 3. Continued Effectiveness of Certain Laws.) Unless displaced by the specific provisions of this Act, the Uniform Com-

mercial Code and other applicable laws remain in full force and effect and supplement the provisions of this Act.

Approved March 13, 1967.

CHAPTER 366

S. B. No. 267

(Melland, Stroup, Robinson, Larson(17))

FARMERS HAULING OWN GOODS

AN ACT

To amend and reenact subsection 3 of section 49-18-02 of the North Dakota Century Code, relating to exemptions to farmers and associations of farmers hauling their own goods and providing for a clarification of those exempted.

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

§ 1. Amendment.) Subsection 3 of section 49-18-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. To the transportation of property, except that compensated for in money, between the farms and the usual local trading places of the farmer for whom the transportation is performed, or between farms locally.

Approved March 3, 1967.

CHAPTER 367

S. B. No. 268

(Melland, Stroup, Robinson, Larson(17))

REGULATION OF AGRICULTURAL CARRIERS

AN ACT

To create and enact sections 49-18-34.1, 49-18-38.1, 49-18-38.2 and 49-18-38.3 of the North Dakota Century Code, providing for regulation of agricultural carriers by the public service commission, and requiring hearings on applications for agricultural carrier permits, and providing for factors to be considered in issuing agricultural carrier permits, and providing for the suspension, revocation and abandonment of agricultural carrier permits, and to amend and reenact subsection 4 of section 49-18-01, sections 49-18-35, 49-18-36 and 49-18-38 of the North Dakota Century Code, relating to the definition of an agricultural carrier, and clarifying those required to have agricultural carrier permits, and relating to the fee for agricultural carrier permits, and relating to the form of application for agricultural carrier permits and providing for temporary agricultural carrier permits.

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

§ 1. **Amendment.**) Subsection 4 of section 49-18-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. "Agricultural carrier" shall mean any person, firm, association, or corporation, hauling or transporting for hire, grain, seed, feed, poultry, livestock, dairy products, and other agricultural products, or farm supplies from the farm where such products are produced, grown, or further processed, to the market or place where such products or supplies are sold, stored, disposed of, purchased or acquired, and the hauling or transporting of such agricultural products or farm supplies from the market or place where the same are purchased or acquired to the farm where the same are to be used, consumed, or further processed;

§ 2.) Section 49-18-34.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

49-18-34.1. Regulation of Agricultural Carriers by Commission.) The commission shall:

1. Supervise and regulate every agricultural carrier for the purpose of promoting safety upon the highways and the conservation of their use;

2. Supervise and regulate the facilities, accounts, service, and the method and safety of operation of each such carrier;
3. Require the filing of annual and other reports and data by such carriers;
4. Supervise and regulate such agricultural carriers in all matters affecting the relation between such carriers and the public to the end that the provisions of this chapter may be fully and completely carried out;
5. Have power and authority, by general order or otherwise, to prescribe rules and regulations in conformity with this chapter applicable to any and all such carriers, and to do all things necessary to carry out and enforce the provisions of this chapter.

§ 3. **Amendment.)** Section 49-18-35 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

49-18-35. Agricultural Carrier — Must Have Permit.) No agricultural carrier shall operate any motor vehicle on any public highway in this state without a permit from the commission.

§ 4. **Amendment.)** Section 49-18-36 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

49-18-36. Agricultural Carrier — Fee for Permit.) Every agricultural carrier at the time of making application for an agricultural carrier's permit, and annually thereafter, on or before April fifteenth of each calendar year, shall pay a fee of twenty-five dollars.

§ 5. **Amendment.)** Section 49-18-38 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

49-18-38. Application for Agricultural Carrier Permit — Form—Temporary Permit.) The commission shall prescribe a form of application for an agricultural carrier permit and shall make regulations for the filing thereof. Said application shall contain a statement by the applicant that he will confine the operation of his motor vehicle within the limitations of the definition of an agricultural carrier, and that he consents to be governed by the safety regulations now in force or that hereafter may be enacted or prescribed. Application for such permit shall be made in writing, stating the ownership, financial condition, equipment to be used, and physical property of

the applicant, and shall contain such other information as the commission may require. 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 an agricultural carrier under such limitations as prescribed by the commission. 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 eighty days, and shall create no presumption that the corresponding permit shall be granted if hearing is held 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.

§ 6.) Section 49-18-38.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

49-18-38.1. Agricultural Carrier — Hearing for Permit.) Upon the filing of an application for a permit, as provided by section 49-18-38, the commission at its discretion may require a hearing and fix a time for such hearing, which shall not be less than twenty days after such filing. The commission shall cause notice of such hearing to be served by registered or certified mail at least ten days before the hearing upon every railroad corporation or other common carrier, and every agricultural carrier, which is operating or which has applied for a certificate or permit to operate in the territory proposed to be served by the applicant and on other interested parties as determined by the commission. Any such common carrier, and other interested persons, may offer testimony for or against the granting of such certificate.

§ 7.) Section 49-18-38.2 of the North Dakota Century Code is hereby created and enacted to read as follows:

49-18-38.2. Issuance of Agricultural Carrier Permit—Factors Considered.) The commission is vested with power and authority to grant or deny, after hearing, the permit prayed for by an agricultural carrier, or to grant it for the partial exercise only of the privilege sought. It may attach to the exercise of the privilege granted by such permit, such terms and conditions as in its judgment will carry out the purposes of this chapter. No permit shall be granted unless the applicant has established to the satisfaction of the commission that the privilege sought will not endanger the safety of the public nor interfere with the public use of the public highways, nor impair the condition or maintenance of such highways, directly or indirectly.

§ 8.) Section 49-18-38.3 of the North Dakota Century Code is hereby created and enacted to read as follows:

49-18-38.3. Agricultural Carrier Permit—Suspension—Revocation—Notice to Commission of Abandonment.) The commission, at any time, for good cause, may suspend an agricultural carrier permit and upon not less than five days notice to the grantee and an opportunity to be heard may revoke such permit. Every agricultural carrier who shall cease operation or abandon his rights under the permit issued shall notify the commission within thirty days of such cessation or abandonment.

Approved March 14, 1967.

PUBLIC WELFARE

CHAPTER 368

S. B. No. 167
(Longmire)

DETERMINATION OF AID

AN ACT

To amend and reenact section 50-24-12 of the 1965 Supplement of the North Dakota Century Code, relating to specific income exemptions in the determination of the amount of aid.

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

§ 1. Amendment.) Section 50-24-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

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.

Approved February 22, 1967.

CHAPTER 369

H. B. No. 839

(Wagner)

COMPOSITION OF COUNCIL ON HUMAN RESOURCES

AN ACT.

To amend and reenact section 50-26-01 of the 1965 Supplement to the North Dakota Century Code, relating to committees of the council on human resources; and amend and reenact section 50-26-04 of the 1965 Supplement to the North Dakota Century Code, relating to the executive committee of the council on human resources.

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

§ 1. **Amendment.)** Section 50-26-01 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-26-01. Establishment of Governor's Council on Human Resources—Certain Committees to Constitute—Appointment.) There is hereby established a governor's council on human resources which shall consist of a committee on aging, a committee on children and youth, a committee on employment of the handicapped, and such other committees who have a related interest in human resources. These committees shall each consist of an executive committee of no more than nine members, each of whom shall be appointed by the governor for a term of three years, staggered so that the terms of one-third of the members of each committee expire July first of each year, except that initial appointments to the committees shall be made on the basis of a one-year term for one-third of the members of each committee; a two-year term for one-third of the members of each committee; and a full three-year term for the remaining members of each committee. Each of the executive committees of the governor's council on human resources may appoint to their committee the chairman of the mayor's committee or his designated representative. A vacancy occurring other than by reason of the expiration of a term shall be filled in the same manner as original appointments, except that such appointment shall be made for the remainder of the unexpired term only.

§ 2. **Amendment.)** Section 50-26-04 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-26-04. Executive Committee—Powers—Employment of Executive Director.) The executive committee of the governor's council on human resources shall consist of the respective

chairman and vice chairman of the committees which constitute the council. They shall select a chairman from their membership and shall meet at such times and at such places as the chairman may direct. Members of the executive committee shall receive the same mileage and expenses for performance of their official duties as is provided in section 50-26-03. It shall be the duty of the executive committee to determine the number of meetings each committee shall hold, the areas in which they shall devote their time, and, generally, to supervise all functions of any committee. The executive committee shall coordinate all functions of the council with other state departments, agencies and other organizations and shall assure that the council cooperate with such departments, agencies, and other organizations wherever possible. The executive committee of the governor's council shall, with the approval of the governor, appoint a full-time director of the council on human resources whose duty it shall be to assist the committees in any manner authorized by the executive committee of the council. The executive committee of the council may authorize the director to employ such clerical help as they deem necessary. The compensation of the director and clerical help shall be set by the executive committee of the council within appropriations by the legislative assembly. A special operating fund for the governor's council on human resources shall be maintained within the state treasury. All expenditures from such fund shall be within the limits of legislative appropriations and shall be made upon vouchers, signed and approved by the chairman of the executive committee. Upon approval of such vouchers by the state auditing board, warrant-checks shall be prepared by the department of accounts and purchases. All moneys received as gifts, donations, or bequests and all federal moneys received shall be deposited in such special operating fund. The state treasurer shall make periodic transfers upon order of the director of the department of accounts and purchases from the governor's council on human resources general fund appropriation to such special operating fund whenever its balance falls so low as to require supplementation. The executive committee is authorized on behalf of the council to accept any federal funds and any other gifts and money from any source that may be offered to them.

Approved March 1, 1967.

SALES AND EXCHANGE

CHAPTER 370

S. B. No. 283
(Kautzmann, Kelly(15))

LICENSING OF RETAILERS

AN ACT

To amend and reenact section 51-10-14 of the 1965 Supplement to the North Dakota Century Code, relating to unfair trade practices, providing for licensing of retailers, and providing penalties.

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

§ 1. **Amendment.)** Section 51-01-14 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

51-10-14. Retailer's License — Penalty.) The state trade commission shall require and provide for the annual registration and licensing of every retailer now or hereafter doing business within this state, which license shall not be transferable. Upon the payment of an annual fee of two dollars and fifty cents, the state trade commission shall issue an annual license to such persons as may be qualified by law to engage in the business of making sales at retail. Each retailer shall secure a separate license for each place of business within the state for which a retail sales or use tax permit is required pursuant to the laws of this state. Every person, firm, or corporation engaging in business as a retailer without procuring a current and valid license as provided in chapter 51-10 of the North Dakota Century Code, as amended, shall be guilty of a misdemeanor and punishable by a fine of not more than one hundred dollars.

Approved March 4, 1967.

SOCIAL SECURITY

CHAPTER 371

S. B. No. 255
(Decker, Lowe)

RATES AND COVERAGE OF UNEMPLOYMENT INSURANCE

AN ACT

To create and enact subsection 27 of section 52-01-01 of the 1965 Supplement to the North Dakota Century Code, related to definitions; and to amend and reenact section 52-05-03 of the North Dakota Century Code, related to election of unemployment compensation coverage and rates of contributions.

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

§ 1.) Subsection 27 of section 52-01-01 of the 1965 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

27. The term "governmental unit" means the state of North Dakota and all its political subdivisions, and all of its departments and instrumentalities.

§ 2. **Amendment.)** Section 52-05-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

52-05-03. Employment Not Included Within Title May Be Deemed Subject to Provisions of Title.) Any employing unit for which services are performed that do not constitute employment as defined in this title may file with the bureau a written election that all such services with respect to which payments are not required under an employment security law of any other state or of the federal government, and which are performed by individuals in its employ in one or more distinct establishments or places of business shall be deemed to constitute employment by an employer for all the purposes of this title for not less than two calendar years. Upon the written approval of such election by the bureau, such services shall be deemed to constitute employment subject to the provisions of this title from and after the date stated in such approval. Such services shall cease to be deemed employment subject hereto as of January first of any calendar year subsequent to such two calendar years, only if during January of such year such employing unit has filed with the bureau a

written notice to that effect. The bureau in its discretion may on its own motion terminate any election agreement under this section upon thirty days' notice to the employer. The rate of contribution for employment covered by an election under this section shall be seven percent of the wages paid after 1959, unless the employer qualifies for a rate of contribution of less than the standard rate, as provided in chapter 52-04, however, a governmental unit which hereafter becomes an employer under this chapter, shall reimburse the state unemployment fund, at the times and in the manner provided by regulation of the bureau, in an amount equal to its share of costs to the unemployment fund. After the termination of an election under this chapter, governmental units shall remain liable for their proportionate share of benefits which are based on wages paid for services during the period of election.

Approved February 24, 1967.

CHAPTER 372

S. B. No. 199
(Larson)

UNEMPLOYMENT RATE AND WAGE BASE

AN ACT

To amend and reenact section 52-04-03 of the North Dakota Century Code, pertaining to rates and wage base for unemployment compensation contributions; and to amend and reenact subsection 1 of section 52-04-06 of the 1963 Supplement to the North Dakota Century Code, related to the variation in standard rate of unemployment compensation contributions and the schedule of rates.

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

§ 1. Amendment.) Section 52-04-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

52-04-03. Rates and Base of Contributions of Wages Paid by Employer.) Each employer shall pay contributions equal to two and seven-tenths percent of wages paid by him during the calendar year with respect to employment, except as otherwise provided in this chapter. For the purposes of this chapter,

wages shall not include that part of remuneration which after remuneration equal to 70 percent of the statewide average annual wage, rounded to the nearest one hundred dollars, for the four calendar quarter periods ending on June thirtieth of the preceding year, has been paid in a calendar year to an individual by an employer or his predecessor with respect to employment during any calendar year, is paid to such individual by such employer during such calendar year provided, that if the definition of the term "wages" as contained in the Federal Unemployment Tax Act is amended to include remuneration in excess of amounts specified in this section paid to an individual by an employer, under the federal Act during any calendar year, wages for the purposes of this section shall include remuneration paid in a calendar year to an individual by an employer subject to this Act or his predecessor with respect to employment during any calendar year up to an amount equal to the dollar limitations specified in the Federal Unemployment Tax Act. For 1968, the amount of wages subject to tax shall not be more than three thousand three hundred dollars; for 1969, the amount of wages subject to the tax shall not be more than three thousand four hundred dollars. The average annual wage shall be computed as follows: on or before December first of each year the total wages, as reported on contribution reports on or before such date, with respect to all employment during the four consecutive calendar quarters ending on June thirtieth of such year shall be divided by the average monthly number of covered workers as reported on contribution reports for the same four calendar quarters. For the purpose of this chapter, the term employment shall include service constituting employment under any employment security law of another state or of the federal government.

§ 2. Amendment.) Subsection 1 of section 52-04-06 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. For the calendar years 1968 and 1969 the rate of contributions will not be higher than the rates at column II of the schedule of rates unless the reserve for benefits as of December thirty-first of the preceding calendar year is less than the highest amount of benefits paid in any one of the preceding five calendar years. For the calendar year 1970 and for each calendar year thereafter the bureau shall determine the ratio of reserves for the payment of benefits as of December thirty-first of the

preceding calendar year, to taxable wages for such preceding calendar year which have been reported to the bureau on or before January thirty-first of the succeeding calendar year. If such ratio is:

- a. Less than three percent, the schedule of rates at column I will be in effect;
- b. Three percent but less than four percent, the schedule of rates at column II will be in effect;
- c. Four percent but less than five percent, the schedule of rates at column III will be in effect;
- d. Five percent but less than six percent, the schedule of rates at column IV will be in effect;
- e. Six percent but less than seven percent, the schedule of rates at column V will be in effect;
- f. Seven percent but less than eight percent, the schedule of rates at column VI will be in effect;
- g. Eight percent but less than nine percent, the schedule of rates at column VII will be in effect;
- h. Nine percent or more, the schedule of rates at column VIII will be in effect.

If the fund reserve ratio decreases during the calendar year 1970 or any calendar year thereafter, the schedule of rates will not be advanced by more than one column for any calendar year, except that the schedule of rates at column I will be in effect for each calendar year that the fund reserve ratio is less than three percent on December thirty-first of the preceding calendar year. The percent of the average annual payroll by which the cumulative contributions paid by an employer on or before January thirty-first of any year, with respect to wages paid by him prior to the first day of January of that calendar year, exceeds the cumulative benefits which were chargeable to his account and paid on or before December thirty-first of the preceding calendar year, shall be such employer's reserve ratio. The contribution rate for the ensuing calendar year of an employer eligible under section 52-04-05 will be the rate of contribution on the line in the schedule of rates opposite his reserve ratio as established for that year.

Schedule of Rates—Fund Reserve Ratio

EMPLOYER'S RESERVE RATIO	Col. I— Less Than 3%	Col. II— 3% But Less Than 4%	Col. III— 4% But Less Than 5%	Col. IV— 5% But Less Than 6%	Col. V— 6% But Less Than 7%	Col. VI— 7% But Less Than 8%	Col. VII— 8% But Less Than 9%	Col. VIII— 9% and Over
Minus Balance	4.2%	4.2%	4.2%	4.2%	4.2%	4.2%	4.2%	4.2%
0% but less than 1%	4.1%	4.1%	3.9%	3.9%	3.7%	2.7%	2.7%	2.7%
1% but less than 2%	4.1%	3.9%	3.9%	3.7%	3.5%	2.7%	2.7%	2.5%
2% but less than 3%	3.9%	3.9%	3.7%	3.5%	3.3%	2.7%	2.5%	2.3%
3% but less than 4%	3.9%	3.7%	3.5%	3.3%	3.1%	2.5%	2.3%	2.1%
4% but less than 5%	3.7%	3.5%	3.3%	3.1%	2.9%	2.3%	2.1%	1.9%
5% but less than 6%	3.5%	3.3%	3.1%	2.9%	2.7%	2.1%	1.9%	1.7%
6% but less than 7%	3.3%	3.1%	2.9%	2.7%	2.5%	1.9%	1.7%	1.5%
7% but less than 8%	3.1%	2.9%	2.7%	2.5%	2.3%	1.7%	1.5%	1.3%
8% but less than 9%	2.9%	2.7%	2.5%	2.3%	2.1%	1.5%	1.3%	1.1%
9% but less than 10%	2.7%	2.5%	2.3%	2.1%	1.9%	1.3%	1.1%	0.9%
10% but less than 11%	2.7%	2.3%	2.1%	1.9%	1.7%	1.1%	0.9%	0.7%
11% but less than 12%	2.7%	2.1%	1.9%	1.7%	1.5%	0.9%	0.7%	0.5%
12% but less than 13%	2.7%	1.9%	1.7%	1.5%	1.3%	0.7%	0.5%	0.3%
13% but less than 14%	2.7%	1.7%	1.5%	1.3%	1.1%	0.5%	0.3%	0.3%
14% but less than 15%	2.7%	1.5%	1.3%	1.1%	0.9%	0.3%	0.3%	0.3%
15% but less than 16%	2.7%	1.3%	1.1%	0.9%	0.7%	0.3%	0.3%	0.3%
16% and over	2.7%	1.1%	0.9%	0.7%	0.5%	0.3%	0.3%	0.3%

Approved February 27, 1967.

CHAPTER 373

H. B. No. 783

(Moquist, Olienyk, Kuehn)

MILITARY RETIREMENT PAYMENTS

AN ACT

To amend and reenact subsection 9 of section 52-06-02 of the North Century Code, relating to receipt of military retirement payments as a disqualification for unemployment compensation benefits.

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

§ 1. Amendment.) Subsection 9 of section 52-06-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

52-06-02. Disqualification for Benefits.) An individual shall be disqualified for benefits:

9. For any week for which such individual is receiving or has claimed and will receive retirement payments under a retirement plan to whose financing any employing unit has substantially contributed or under any retirement system supported in whole or in part by public contributions or under both. If the retirement payment referred to is less than the benefits which would otherwise be due, claimant shall be entitled to receive for such week, if otherwise eligible, benefits reduced by the amount of such retirement payment raised to the next higher multiple of one dollar. Retirement pay based on twenty or more years of military service as a member of the armed forces of the United States shall be excluded herefrom and shall in no way affect benefits to which a claimant might otherwise be entitled.

Approved March 10, 1967.

CHAPTER 374

H. B. No. 712
(Brown)

PRIMARY INSURANCE BENEFIT

AN ACT

To amend and reenact subdivision (2) of subsection D. of section 52-09-20 of the North Dakota Century Code and to create and enact subparagraph (3) of subsection D. of section 52-09-20 of the North Dakota Century Code, relating to definitions of primary insurance benefit under North Dakota old age and survivor insurance system.

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

§ 1. **Amendment.**) Subparagraph (2) of subsection D. of section 52-09-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- (2) An amount equal to one per centum of the amount computed under paragraph (1) multiplied by the number of years in which two hundred dollars or more of wages were paid to such individual.

§ 2.) Subparagraph (3) of subsection D. of section 52-09-20 of the North Dakota Century Code is hereby created and enacted to read as follows:

- (3) From and after April 1, 1967, the term "primary insurance benefit" shall be the total of the sums determined in (1) and (2) of this subsection plus ten dollars. Where the primary insurance benefit thus computed is less than fifteen dollars, such benefit shall be fifteen dollars. The provisions herein shall apply to valid claims filed before and after the specified date.

Approved March 1, 1967.

CHAPTER 375

H. B. No. 801
(Sanstead, Erickson(26))

SOCIAL SECURITY DIVIDED RETIREMENT SYSTEMS

AN ACT

To create and enact section 52-10-11 of the North Dakota Century Code, related to divided retirement systems for social security coverage.

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

§ 1.) Section 52-10-11 of the North Dakota Century Code is hereby created and enacted to read as follows:

52-10-11. Systems Divided—Referendum on Social Security.)

1. Notwithstanding the provisions of sections 52-10-05 and 52-10-07, with respect to the employees of any political subdivision who are under a locally administered retirement system in existence prior to April 23, 1957, including the North Dakota teachers insurance and retirement fund for the purposes of this section, the governor is empowered to authorize a referendum for a divided retirement system as provided by section 218 of title II of the Social Security Act. The system shall be divided as follows:
 - a. Group A of the divided retirement system shall be composed of:
 - (1) Persons, in positions covered in a locally administered retirement system at the time the political subdivision submits the plan of coverage, who have indicated in accordance with this section that they desire coverage under an agreement under section 218 of title II of the Federal Social Security Act;
 - (2) Individuals, including former employees, who become employed in a position covered by a local retirement system after April 23, 1957, and inactive members who become employed in positions covered by a locally administered retirement system after said date.
 - b. Group B shall be composed of all other persons who are employed in positions covered by a local retire-

ment system at the time referred to in subsection 1 a (1) of this section.

2. Each person who is an actively employed person in a position covered by a local retirement system on the date the political subdivision makes application to the governor for a referendum under this section, shall indicate whether he desires to be a member of group A or group B on a form furnished for that purpose by the state agency and deliver said form to the office of the state agency. An employee who chooses to become a member of group A shall thereby elect to become subject to the laws relating to group A. Each such employee shall enter his mailing address on such form. At the time the state agency certifies to the governor that the plan of coverage required by section 52-10-05 meets the requirements of the law, the state agency shall certify to the governor the names and addresses of the employees of the political subdivision who have indicated their desire to become members of group A.
3. When the state agency has certified to the governor the names and addresses of group A, the governor shall forthwith take all actions necessary for the conduct of a referendum under section 52-10-07 so that members of group A may vote in favor of or against coverage under the federal old age and survivors insurance system. If a majority of the members of group A vote in favor of such coverage, the amendments made and provisions created by this Act shall be fully operative. If less than a majority vote in favor of such coverage, such amendments and provisions shall not continue in effect and a retirement system shall be deemed not to be divided into group A and group B.
4. Employees in positions covered by locally administered retirement plans who have indicated their desire to become members of group B under this section may request a transfer to group A, provided such request is in writing and received by the state agency within the time limit specified in section 218 of title II of the Social Security Act.

Approved March 15, 1967.

STATE GOVERNMENT

CHAPTER 376

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

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

AN ACT

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Approved March 14, 1967.

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

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

CHAPTER 377

H. B. No. 889

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

THEODORE ROOSEVELT ROUGH RIDER AWARDS

AN ACT

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

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

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

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

Approved March 4, 1967.

CHAPTER 378

H. B. No. 933
(Sanstead (By request))

STATE FOSSIL

AN ACT

To provide a state fossil.

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

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

Approved March 15, 1967.

CHAPTER 379

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

LEGISLATIVE MEMBERS' EXPENSE ALLOWANCE

AN ACT

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

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

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

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

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

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

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

Approved March 14, 1967.

CHAPTER 380

S. B. No. 232

(Decker, Melland, Litten, Trenbeath, Chesrown, Sands,
(Kelly(15), Luick, Stroup)

CONFLICT OF INTEREST REPEAL

AN ACT

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

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

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

Filed March 13, 1967.

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

CHAPTER 381

H. B. No. 543

(Backes, Giffey, Link, Streibel)
(From LRC Study)

FORM OF ENROLLED BILLS

AN ACT

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

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

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

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

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

Approved January 13, 1967.

CHAPTER 382

SENATE BILL No. 32

(Christensen, Lips)

(Recommended by Legislative Audit and Fiscal Review Committee)

TRAVEL EXPENSE OF STATE OFFICERS AND EMPLOYEES

AN ACT

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

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

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

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

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

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

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

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

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

Approved February 1, 1967.

CHAPTER 383

S. B. No. 236
(Holand)

GOVERNOR'S AUTHORITY REGARDING HIGHWAY SAFETY ACT

AN ACT

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

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

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

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

Approved March 14, 1967.

CHAPTER 384

S. B. No. 90
(Wenstrom)

AUTHORITY OF EMERGENCY COMMISSION

AN ACT

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

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

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

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

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

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

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

Approved March 14, 1967.

CHAPTER 385

H. B. No. 553

(Davis, Reimers)

(Recommended by Legislative Audit and Fiscal Review Committee)

ACCEPTANCE OF FEDERAL FUNDS

AN ACT

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

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

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

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

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

Approved February 22, 1967.

CHAPTER 386

S. B. No. 76
(Wenstrom)

REPORTS TO EMERGENCY COMMISSION

AN ACT

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

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

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

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

Approved February 27, 1967.

CHAPTER 387

S. B. No. 324
(Ringsak)

ACCEPTANCE OF DONATIONS FOR CHAPEL
AT GRAFTON STATE SCHOOL

AN ACT

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

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

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

Approved March 14, 1967.

CHAPTER 388

S. B. No. 327

(Nething, Torgerson, Christensen)

COMMUNICATIONS SYSTEM

AN ACT

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Approved March 14, 1967.

CHAPTER 389

S. B. No. 110
(Larsen)

LIBRARY SERVICES

AN ACT

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

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

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

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

Approved February 24, 1967.

CHAPTER 390

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

COUNTY REMITTANCE OF STATE TAXES

AN ACT

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

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

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

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

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

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

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

Approved February 27, 1967.

CHAPTER 391

S. B. No. 182
(Longmire)

INTERIM COMPENSATION OF LEGISLATORS

AN ACT

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

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

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

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

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

Approved March 14, 1967.

CHAPTER 392

S. B. No. 293

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

CENTRALIZED DATA PROCESSING, STATE
PURCHASING FUND

AN ACT

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

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

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

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

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

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

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

Approved March 14, 1967.

CHAPTER 393

S. B. No. 320
(Holand)

PRINTING OF BUDGET REPORT

AN ACT

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

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

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

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

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

Approved March 14, 1967.

CHAPTER 394

S. B. No. 31

(Christensen, Lips)

(Recommended by Legislative Audit and Fiscal Review Committee)

CONTROL OVER RATE OF EXPENDITURES

AN ACT

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

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

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

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

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

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

Approved March 3, 1967.

CHAPTER 395

S. B. No. 275
(Ringsak)

STATE EMPLOYEES' RETIREMENT SYSTEM

AN ACT

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Approved March 15, 1967.

CHAPTER 396

S. B. No. 319

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

UPPER GREAT PLAINS TRANSPORTATION INSTITUTE

AN ACT

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

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

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

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

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

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

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

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

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

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

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

Approved March 6, 1967.

CHAPTER 397

H. B. No. 628

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

(Dahl, Peterson(5), Eagles)

COUNCIL ON ARTS AND HUMANITIES

AN ACT

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Approved March 14, 1967.

CHAPTER 398

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

DATA PROCESSING STUDY

AN ACT

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

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

§ 1. Existing Data Processing Costs and Systems.)

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

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

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

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

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

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

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

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

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

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

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

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

Approved March 15, 1967.

CHAPTER 399

H. B. No. 693

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

CANADIAN CENTENNIAL COMMISSION

AN ACT

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

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

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

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

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

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

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

Approved March 14, 1967.

CHAPTER 400

H. B. No. 804

(Link, Streibel, Giffey, Reimers)

TRANSFER OF STATE MILL PROFITS

AN ACT

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

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

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

Approved March 14, 1967.

CHAPTER 401

S. B. No. 397

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

TRANSFER OF GRAND FORKS FAIR GROUNDS

AN ACT

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

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

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

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

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

Approved March 14, 1967.

CHAPTER 402

S. B. No. 281
(Wenstrom)

TRANSFER OF HISTORICAL SITES

AN ACT

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

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

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

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

Fort Buford	\$ 14,000.00
Whitestone Hill battlefield.....	8,000.00
Fort Rice	1,000.00

Total	\$ 23,000.00

Approved March 15, 1967.

CHAPTER 403

H. B. No. 814
(Olienyk)

TRANSFER OF DICKINSON SUBSTATION LAND

AN ACT

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

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

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

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

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

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

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

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

Approved March 14, 1967.

CHAPTER 404

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

SALE OF STATE HOSPITAL LAND

AN ACT

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

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

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

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

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

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

Approved February 25, 1967.

CHAPTER 405

H. B. No. 656

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

CONVEYANCE OF FARGO FAIRGROUND LAND

AN ACT

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

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

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

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

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

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

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

Approved February 23, 1967.

CHAPTER 406

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

CONVEYANCE OF LAND TO HIGHWAY DEPARTMENT

AN ACT

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

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

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

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

Approved February 24, 1967.

CHAPTER 407

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

CONVEYANCE OF TRANSMISSION LINE EASEMENT

AN ACT

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

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

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

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

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

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

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

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

Approved March 14, 1967.

CHAPTER 408

*S. B. No. 221
(Lips)

SALE OF MEDORA HIGHWAY BUILDING

AN ACT

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

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

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

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

***Note:** Senate Bill No. 221 as introduced contained a section 3 which reads as follows: "SECTION 3. EMERGENCY.) This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval." The House and Senate Journals do not indicate that this section was deleted by amendment and the original bill contains this section. The enrolled bill signed by the governor does not contain the emergency clause. It therefore appears that an enrolling error was made, and that it was the intent of the legislative assembly that Senate Bill No. 221 be an emergency measure.

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

March 14, 1967.

CHAPTER 409

S. B. No. 81
(Kautzmann)

LEASE OF INDUSTRIAL SCHOOL LAND

AN ACT

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

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

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

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

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

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

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

Approved February 28, 1967.

CHAPTER 410

H. B. No. 770
(Halcrow)

ACCEPTANCE OF LAND FROM STATE OF MINNESOTA

AN ACT

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

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

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

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

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

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

Nothing contained in the provisions of this section shall be construed in such manner as to prejudice the title, right, or claim of any person to any of the lands herein involved. The register of deeds of Pembina county, North Dakota, shall accept and record, without charge therefor, patents, deeds, or other evidences of ownership or interest in any lands recorded in Kittson county, Minnesota, which were previously a part of the state of Minnesota but are now within the boundaries of the state of North Dakota. Recordings made under the provisions of this section shall have retroactive effect to the date of their original recording in the state of Minnesota.

The Act of the legislature of the state of Minnesota referred to in this section, together with this section, shall constitute the agreement between the states of Minnesota and North Dakota. The Congress of the United States, upon passage of such Acts by the respective legislatures of the states of Minnesota and North Dakota, is petitioned, pursuant to article 1, section 10, clause 3 of the United States Constitution, to give its consent to this agreement and to amend the Enabling Acts of such states accordingly. The secretary of state of North Dakota shall transmit duly certified copies of this Act to the presiding officers of the senate and house of representatives of the United States and to the several senators and representatives of the states of Minnesota and North Dakota in the

Congress of the United States, who are petitioned to take such action as they deem proper to procure the consent of the Congress of the United States to this agreement between the states of Minnesota and North Dakota. This agreement shall become effective when it has been ratified and approved by the legislatures of the states of Minnesota and North Dakota and approved by the Congress of the United States.

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

Approved March 1, 1967.

LEGISLATIVE APPORTIONMENT LAW OF THE STATE OF NORTH DAKOTA

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

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

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

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

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

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

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

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

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

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

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

- eighty-seven, eighty-eight, eighty-nine, and ninety west lying within the county of Morton, and shall be entitled to one senator and two representatives;
36. The thirty-sixth legislative district shall consist of the counties of McKenzie and Dunn, and shall be entitled to one senator and two representatives;
 37. The thirty-seventh legislative district shall consist of townships one hundred thirty-seven north of ranges ninety-five, ninety-six, ninety-seven, ninety-eight, and ninety-nine west; townships one hundred thirty-eight north of ranges ninety-five, ninety-six, ninety-seven, ninety-eight, and ninety-nine west; townships one hundred thirty-nine north of ranges ninety-five, ninety-six, ninety-seven, ninety-eight, and ninety-nine west; and townships one hundred forty north of ranges ninety-five, ninety-six, ninety-seven, ninety-eight, and ninety-nine west lying within the county of Stark, and shall be entitled to one senator and two representatives;
 38. The thirty-eighth legislative district shall consist of the county of Hettinger and townships one hundred thirty-seven north of ranges ninety-one, ninety-two, ninety-three, and ninety-four west; townships one hundred thirty-eight north of ranges ninety-one, ninety-two, ninety-three, and ninety-four west; townships one hundred thirty-nine north of ranges ninety-one, ninety-two, ninety-three, and ninety-four west; townships one hundred forty north of ranges ninety-one, ninety-two, ninety-three, and ninety-four west; and townships one hundred forty-one north of ranges ninety-one, ninety-two, and ninety-three west lying within the county of Stark and townships one hundred twenty-nine north of ranges ninety-one, ninety-two, ninety-three, and ninety-four west; townships one hundred thirty north of ranges ninety-one, ninety-two, ninety-three, and ninety-four west; townships one hundred thirty-one north of ranges ninety-one, ninety-two, ninety-three, ninety-four, ninety-five, ninety-six, ninety-seven, and ninety-eight west; and townships one hundred thirty-two north of ranges ninety-five, ninety-six, ninety-seven, and ninety-eight west lying within the county of Adams, and shall be entitled to one senator and two representatives; and
 39. The thirty-ninth legislative district shall consist of the counties of Golden Valley, Billings, Slope, and Bowman and townships one hundred twenty-nine north of ranges ninety-five, ninety-six, ninety-seven, and ninety-eight west; and townships one hundred thirty north of ranges ninety-five, ninety-six, ninety-seven, and ninety-eight

west lying within the county of Adams, and shall be entitled to one senator and two representatives.

§ 2. Numbering Legislative Districts—Classes of Senators to Provide Staggered Terms.) The senators shall be divided into two classes, those elected in legislative districts designated by even numbers shall constitute one class, and those elected in legislative districts designated by odd numbers shall constitute the other class. The senators of one class elected in the first election held under the provisions of this Legislative Apportionment law shall hold their office for two years, those of the other class shall hold their office four years, and the determination of the two classes shall be by lot, so that one-half of the senators, as nearly as practicable, may be elected biennially. The president of the senate shall perform the lot in the presence of the majority and minority floor leaders of the senate within ten days after the commencement of the first session of the Legislative Assembly of this state which is comprised of senators elected hereunder, and shall certify in writing the results of such lot to the secretary of state within five days after its performance.

STATE HISTORICAL SOCIETY AND STATE PARKS

CHAPTER 411

S. B. No. 282
(Wenstrom)

STATE HISTORICAL BOARD AND DUTIES OF SUPERINTENDENT

AN ACT

To create and enact subsection 11 of section 55-01-02, section 55-02-01.3, subsections 9 and 10 of section 55-08-03, and to amend and reenact section 55-01-01 and subsections 9 and 10 of section 55-01-02, all of the North Dakota Century Code, relating to the state historical society and the superintendent thereof.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Amendment.) Section 55-01-01 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

***55-01-01. State Historical Board.)** There shall be a state historical society of North Dakota which will be under the supervision and control of the state historical board. The board shall consist of nine members who shall be appointed by the governor with the consent of the senate. Each member appointed to such board must be a citizen and resident of the state of North Dakota. Interim appointments 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. 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 except that the first appointments under this Act shall be staggered so that the term of three members shall expire each year. 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 board. The

***Note:** Section 18 of chapter 74, 1967 S.L., also amended section 55-01-01.

secretary of state, state engineer, state highway commissioner, state forester, state game and fish commissioner, director of state library commission, and state treasurer shall be ex officio members of the board and shall take care that the interests of the state are protected.

§ 2. **Amendment.**) Subsections 9 and 10 of section 55-01-02 of the 1965 Supplement to the North Dakota Century Code are hereby amended and reenacted and subsection 11 of section 55-01-02 of the 1965 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

9. Supervise, control, care for, maintain, and develop any such state monuments as trustees for the state;
10. Administer any such state monuments as an agent of the national park service, bureau of reclamation, corps of engineers, or any other division of federal, state, or local government; and
11. Cooperate with historical societies and associations duly organized under the laws of the state of North Dakota, and to provide the same with publications, pamphlets, and other documents of historical interest.

§ 3.) Section 55-02-01.3 of the 1965 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

55-02-01.3. Survey of Historical Sites of the State Historical Society.) The superintendent shall annually visit the state parks and advise the state park director on all matters pertaining to the preservation of historical and archaeological artifacts, historical structures, accuracy of signs, markers, visitor center labels, displays, literature relating to the parks, and historical interpretation of the state parks. These duties may be performed by his duly designated representative.

§ 4.) Subsections 9 and 10 of section 55-08-03 of the 1965 Supplement to the North Dakota Century Code are hereby created and enacted to read as follows:

9. The director shall seek the advice of the superintendent of the historical board on all matters relating to history, prehistory and paleontology of the state parks. If additional assistance is needed or required, the superintendent shall coordinate such assistance.
10. The director shall advise in advance and consult with the superintendent of the historical board before undertaking any earth-moving operations or major constructions so that the director may be advised whether or not such earth-moving operations or constructions might en-

danger historical archaeological artifacts or the paleontological value of the area. The superintendent of the state historical board and the state park director shall jointly agree on the disposition of historical artifacts and archaeological material at state monuments and state parks.

Approved March 15, 1967.

CHAPTER 412

H. B. No. 551

(Bier, Boustead, Glaspey, Mueller)
(From LRC Study)

PROTECTION OF PREHISTORIC SITES

AN ACT

To amend and reenact sections 55-03-01 and 55-03-02 of the 1965 Supplement to the North Dakota Century Code, relating to the protection of prehistoric sites and deposits.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Amendment.) Section 55-03-01 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

55-03-01. Permit To Explore Prehistoric or Historic Sites and Deposits Required—Application—Fee.) Any person, before making any investigation, exploration, or excavation of any prehistoric or historic ruins, Indian mounds, graves or villages, or other sites for archaeological or paleontological material, on any lands in North Dakota, first shall obtain a permit or annual license from the superintendent of the state historical board of North Dakota. Such permit or license may be issued when an application has been filed with such officer setting forth:

1. The location of the site where applicant proposes to explore or excavate for such archaeological or paleontological material; and
2. The qualifications and scientific fitness of the applicant to make such investigation, exploration, or excavation.

Each such application shall be accompanied by a filing fee of five dollars.

§ 2. Amendment.) Section 55-03-02 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

55-03-02. Contents of Permit To Explore Prehistoric or Historic Sites and Deposits.) Each permit or license issued pursuant to an application made as is provided by section 55-03-01 shall describe accurately the location and site of the ruins, mounds, graves or deposits where the exploration or excavation is to be conducted and shall authorize or permit explorations or excavations only at the described location. A supplementary permit or license shall be granted for any other location upon the payment of a fee of two dollars and fifty cents, but no permit shall be granted for investigation, exploration, or excavation on any land until the superintendent shall be satisfied that the applicant has the scientific training and fitness to make such investigation, exploration, or excavation. When the prehistoric or historic sites or deposits are on land owned by an instrumentality of the state of North Dakota, such permit will not be granted until the applicant has agreed to deliver to the state historical society all of the articles, fossil remains, and archaeological, paleontological, or historical materials of a useful nature found and removed from such land. In all cases, a permit will not be granted until the applicant has agreed to deliver to the superintendent copies of all maps, notes, photographs, and any other records pertinent to the explorations, as well as a final report. This shall be done according to terms agreed upon by the superintendent and the applicant previous to issuance of the permit.

Approved February 27, 1967.

CHAPTER 413

H. B. No. 798
(Solberg(9), Halcrow, Mueller)

PARK SERVICE REVENUE BONDS

AN ACT

To amend and reenact sections 55-08-05, 55-08-07, and 55-08-14 of the North Dakota Century Code, relating to the acquisition, construction, reconstruction, improvement, betterment, and extension of special service projects by the North Dakota park service, the charges and fees for service provided by such projects, the appropriation of the revenues thereof to the park fund and state park revenue bond fund, and the issuance of revenue bonds to pay capital costs of such projects, and authorizing the issuance of revenue bonds to finance certain projects.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **Amendment.)** Section 55-08-05 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

55-08-05. Charges for Services.) The director is hereby authorized to provide special services within state parks, state campgrounds, state recreation areas and reserves, and to make rules and regulations for the use of such services. The director with the consent of the majority of the members of the state park advisory council shall establish and cause to be collected charges, fees and rentals for the use of all such special services, and shall revise the same when necessary, in such manner that the revenue derived therefrom will be sufficient to pay the cost of providing each such service and to pay the principal of and interest on all bonds issued for projects furnishing the facilities for any such services, and to maintain a reserve for the security of said bonds as herein provided. Specifically, but without limitation of said general authorization, the director may:

1. Provide special parking space for automobiles or other motor-driven vehicles in any state park or state recreation area.
2. Provide special parking spurs and campgrounds for automobiles and sites for tent-camping and special auto trailer coach parking spaces for the use of the individual charged for such space according to the daily rate which shall be determined and fixed by the director consistent with the type of facility provided for the accommodation of visitors in any particular park and with similar facilities offered for tourist camping in the area.

3. Charge a fee for entrance to any pageant grounds which may be created in any state park, state recreation area or reserve for the purpose of having historical or other pageants conducted by the agent of any authorized agency.
4. Provide water, sewer, and electric service to trailer or tent campsites and buildings and structures included in projects authorized by the legislative assembly.
5. Provide facilities for the sale to the public of food, non-intoxicating beverages, and other merchandise and personal services of a suitable nature, and make buildings, structures, and other recreational facilities available for use and occupancy by the public, or contract for the lease of any such buildings, structures, and facilities to a concessionaire to be operated on such terms and compensation basis as the director shall determine to be in the best interest of the state. A bond shall be required of each concessionaire in such amount as the director shall determine, conditioned upon the faithful performance of all duties under the lease and proper accounting for all funds.
6. Charge and collect motor vehicle permit fees in such amounts as are or shall be prescribed by the legislative assembly, not less than the amounts now prescribed in section 55-08-06, which fees are and shall be imposed for the sole purposes of paying capital costs of projects required to provide the special services herein described and referred to, and of meeting the principal and interest and reserve requirements of bonds issued to finance such projects.

§ 2. **Amendment.)** Section 55-08-07 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

55-08-07. State Park Fund.) All revenues collected as permit fees, admissions, use charges, rentals, compensation for concession agreements, or otherwise, shall be placed in the state park fund, together with all proceeds of bonds issued pursuant to section 55-08-08. This fund shall be maintained by the state treasurer as a special trust fund and is hereby irrevocably appropriated and shall be used and disbursed solely for the following purposes:

1. To pay the current cost of furnishing each special service provided in accordance with this chapter. For this purpose the charges, fees and rentals for each service shall be credited to a special operating account, from which

- shall be paid only the current, reasonable and necessary cost of operating such service, determined in accordance with accepted accounting practice, including the purchase price of merchandise and utilities sold and the compensation of employees necessarily attributable to the furnishing of such service. The director shall incur no operating cost for any building, structure, or facility leased, and such leases shall provide for the payment of such costs by the lessee and for the payment of a net rental in addition thereto. No such lease rentals and no motor vehicle permit fees shall be credited to operating accounts.
2. To provide for the payment and security of the principal and interest when due on any state park revenue bonds issued pursuant to section 55-08-08. For this purpose the treasurer shall credit to a special service account within the state park fund, as received, all bond proceeds, all motor vehicle permit fees and all rental payments by lessees, and all net income remaining in the operating account for each special service at the end of each month, in excess of the costs of operation thereof which are then payable or are to become due and payable within one month, and shall transfer from this fund and account to the revenue bond fund described in section 55-08-09, whenever necessary, so much of the revenues then on hand as may be required, or all thereof, if necessary, to produce a balance in the revenue bond fund equal to the sum of the interest due and to become due within eighteen months plus the principal due and to become due within twenty-four months thereafter on all outstanding series of such bonds.
 3. To finance the acquisition, construction, reconstruction, improvement, betterment or extension of park properties, for projects within state parks, state campgrounds, state recreation areas and reserves including, but without limitation, the acquisition of land and water, the erection of buildings and structures, and the improvement of properties held in trust for or leased by the state of North Dakota, when and as authorized from time to time by the legislative assembly of the state of North Dakota. For this purpose the director shall authorize the disbursement from time to time of bond proceeds and revenues received in the fund, provided that no such disbursements shall be made in excess of the amounts of revenue bonds issued and other funds granted or appropriated and received for this purpose, and no such disbursements shall be made at any time when the

balance in the revenue bond fund is less than specified in subsection 2 of this section 55-08-07.

4. For any other park purpose for which funds shall have been appropriated by the legislative assembly to the North Dakota park service, provided that no such disbursement shall be made at any time when the balance in the revenue bond fund is less than specified in subsection 2 of this section 55-08-07.

§ 3. **Amendment.)** Section 55-08-14 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

55-08-14. Projects and Revenue Bonds Authorized.) In accordance with the provisions of the foregoing sections of this chapter, revenue bonds are authorized to be issued and sold for the purpose of providing funds for the acquisition, construction, reconstruction, improvement, betterment and extension of park properties to be operated as revenue-producing service projects within state parks, state campgrounds, state recreation areas and reserves at the following locations and in the following maximum amounts:

1. Garrison Lake state park, eighteen thousand dollars, for a camping area;
2. Fort Lincoln state park, fifty thousand dollars, for a visitor service building and related improvements at the home of General Custer;
3. Lake Metigoshe state park, thirty thousand dollars, for ranger quarters and hard surface roads;
4. Turtle River state park, forty thousand dollars, for a swimming pool and camping area;
5. Totten Trail state park, ten thousand dollars, for a water, sewer and electric system, comfort station, fish house and docks;
6. Icelandic state park, thirty-three thousand dollars, for ranger quarters, bathhouse and swimming facilities, fencing, well, and picnic area;
7. Beaver Lake state park, four thousand dollars, for a bathhouse and docks;
8. Fort Buford state park, ten thousand dollars, for fencing, well, picnic area and improvements to fort buildings;
9. Fort Abercrombie state park, five thousand dollars, for a comfort station, water, sewer and road facilities;

10. Whitestone Hill state park, eight thousand dollars, for a visitor pavilion.

Bonds issued as authorized in this section shall never become a general obligation or indebtedness of the state of North Dakota, but shall be payable solely from the state park revenue bond fund to be created from the revenues pledged thereto in accordance with the law and Constitution of the state of North Dakota. The proceeds of the sale of said bonds, or so much thereof as may be necessary, are hereby appropriated for the projects authorized in this section, together with all gifts and grants received and to be received from the United States or any other source for such projects, and all funds made available from moneys appropriated to the state outdoor recreation fund for the planning, acquisition and development of such projects as part of the state outdoor recreation program. Any unexpended proceeds from the sale of the bonds shall be placed in said revenue bond fund for the retirement of the bonds herein authorized.

Approved March 15, 1967.

CHAPTER 414

S. B. No. 83
(Robinson)

PERMITS AND FEES FOR STATE PARKS

AN ACT

To create and enact section 55-08-06.1 of the North Dakota Century Code, relating to state park motor vehicle permits and fees and to amend and reenact section 55-08-06 of the North Dakota Century Code, relating to permit and admission fees to state parks.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **Amendment.)** Section 55-08-06 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

55-08-06. Permits for Motor Vehicles.) No motor vehicle shall enter or be permitted to enter any state park, state recreational area or reserve over fifty acres in area unless it has affixed to its windshield in the lower right corner thereof a permit issued as provided in this section, provided, however, that this shall not apply to any motor vehicles entering any state park for the purpose of parking thereon during the per-

formance of any historic drama. The director of state parks shall procure permits in such form as he shall prescribe for each calendar year which by appropriate language shall grant permission to use any state park, state recreational area or reserve over fifty acres in area. Permits for each calendar year shall be provided and placed on sale before October first next preceding, and may be affixed and used on or at any time after said date until the end of the calendar year for which issued. Such permits in each category shall be numbered consecutively for each year of issue. A fee of two dollars shall be charged for each permit issued, except that permits of appropriate special design may be sold individually at fifty cents or in lots of ten or more to any organization at twenty-five cents per permit covering the use of state parks, state recreational areas or reserves under such conditions as the director may prescribe for a designated period of not more than three days. The fees collected shall be deposited in the state park fund in the state treasury.

§ 2.) Section 55-08-06.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

55-08-06.1. Exceptions to Motor Vehicle Permits and Fees Authorized.) The director of state parks, upon specific approval by the state park advisory council, is authorized to except all or any part of any state park, state recreational area or reserve from the requirement of the motor vehicle permit and fee, for any period, when in his judgment and the judgment of the state park advisory council, it is desirable to do so; provided, however, that no further exceptions can be made after state park revenue bonds are issued and while such bonds are outstanding.

Approved March 15, 1967.

CHAPTER 415

S. B. No. 298

(Larson(32), Nasset, Longmire, Jacobson, Nething,
(Kelly(24), Wenstrom, Trenbeath, Kautzmann)

PRESERVATION OF HISTORIC SITES AND ANTIQUITIES

AN ACT

Providing for the preservation of historic sites, structures, and antiquities of state and national significance, and authorizing transfers of such property.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **Policy.)** It is hereby declared to be in the public interest to provide for the preservation of historic sites, buildings, structures, and antiquities of state and national significance for the inspiration, use, and benefit of the people of the state of North Dakota.

§ 2. **Definitions.)** 1. Land or water areas containing historic or archaeological value for the purpose of this Act are designated as "state historic sites". A state historic site is also an area designated by the state historical society of North Dakota as a site possessing historical value of state or national significance. The term state historic site includes the items defined in this section.

2. A "state historical marker" is a plaque, sign, or marker authorized by the state historical society of North Dakota, and includes markers maintained by the state highway department, the state park service, or other departments or agencies of the state and its governmental subdivisions.

3. A "state archaeological site" is an area, primarily relating to prehistoric man, designated by the state historical society of North Dakota as possessing state or national significance.

§ 3. **State Historic Sites—Registry.)** The land and water areas enumerated in this section are hereby designated by law as state historic sites, and this section shall be a registry of state historic sites situated on property owned by the state, its governmental subdivisions:

1. Camp Hancock in Burleigh county on Main street opposite First street, Bismarck, and consists of ninety-two hundredths acres.

2. Camp Grant, in Stutsman county, and consists of one acre in section twenty-four, township one hundred forty-three, range sixty-nine.
3. Camp Kimball, in Foster county, and consists of thirteen hundredths acres in section sixteen, township one hundred forty-five, range sixty-seven.
4. Camp Sheardown, in Barnes county, three miles south-east of Valley City, and consists of three hundredths acres in section two, township one hundred thirty-nine, range fifty-eight.
5. Camp Weiser, in Barnes county, thirteen miles west of Enderlin, and consists of three hundredths acres in section thirty-three, township one hundred thirty-seven, range fifty-seven.
6. Camp Corning, in Barnes county, seven miles northeast of Dazey, and consists of thirty hundredths acres in section eight, township one hundred forty-three, range fifty-eight.
7. Camp Whitney, in Kidder county, near Tappen, and consists of four acres in section thirty-one, township one hundred forty-one, range seventy.
8. Bismarck-Deadwood stage trail, in Morton county, and consists of three hundredths acres in section thirty-four, township one hundred thirty-five, range eighty-four.
9. Chaska, in Burleigh county, three miles north of Driscoll, and consists of five hundredths acres in section thirty-four, township one hundred forty, range seventy-five.
10. Gingras trading post, in Pembina county, north and east of Walhalla, and consists of seventy-six hundredths acres in sections sixteen, seventeen, twenty, and twenty-one, township one hundred sixty-three, range fifty-six.
11. Lake Jessie, in Griggs county, and consists of twenty-nine hundredths acres in section twenty-two, township one hundred forty-seven, range sixty.
12. Maple Creek crossing, in Cass county, near Chaffee, and consists of thirty-eight hundredths acres in section thirty-six, township one hundred thirty-eight, range fifty-three.
13. Medicine Butte, in Grant county, south of Elgin, and consists of a dance ring two hundred feet in diameter in section thirty-one, township one hundred thirty-three, range eighty-eight.

14. David Thompson, in McHenry county, and consists of sixty-eight hundredths acres in section thirty-one, township one hundred fifty-four, range seventy-eight.
15. Birch Creek camp site, in Barnes county, two miles east of Hastings, and consists of one acre in section eighteen, township one hundred thirty-seven, range fifty-eight.
16. Buffalo Creek camp site, in Cass county, two miles west of Buffalo, and consists of twenty-five hundredths acres in section twenty-two, township one hundred forty, range fifty-five.
17. Burman, in Kidder county, ten miles north of Tappen, and consists of one hundredths acres in section twenty-four, township one hundred forty-one, range seventy-one.
18. Camp Arnold, in Barnes county, four miles north of Oriska, and consists of ten hundredths acres in section thirty-two, township one hundred forty-one, range fifty-six.
19. Camp Atchison, in Griggs county, near Valley City, and consists of forty hundredths acres in section twenty-eight, township one hundred forty-seven, range sixty.
20. Camp Buell, in Sargent county, and consists of five acres in section sixteen, township one hundred thirty-two, range fifty-four.
21. Sitting Bull, in Sioux county, and consists of five acres in section twelve, township one hundred thirty, range eighty.
22. Steamboat Warehouse, in Burleigh county, and consists of three and twenty-one hundredths acres in section thirty-one, township one hundred thirty-nine, range eighty.
23. Sully Corral, in Stark county, and consists of four and sixty-two hundredths acres in section ten, township one hundred thirty-seven, range ninety-one.
24. Cannonball stage station, in Grant county, consists of two and one-half acres in section twenty-nine, township one hundred thirty-two, range eighty-six.
25. McPhails Butte, in Kidder county, seven miles north of Tappen, and consists of thirty-two hundredths acres in section four, township one hundred forty, range seventy-one.

26. Writing Rock, in Divide county, and consists of ten acres in section twelve, township one hundred sixty-one, range one hundred two.
27. Fort Ransom, in Ransom county near the town of Fort Ransom, and consists of six and forty-two hundredths acres in section eleven, township one hundred thirty-five, range fifty-eight.
28. Fort Mandan, in McLean county, four miles west of Washburn, and consists of thirty and forty-seven hundredths acres in sections eleven and twelve, township one hundred forty-four, range eighty-four.
29. Fort Seward, in Stutsman county, in the city of Jamestown, and consists of three and fifty-six hundredths acres in section twenty-six, township one hundred forty, range sixty-four.
30. Fort Dilts, in Bowman county, nine miles northwest of Rhame, and consists of eight and twenty-five hundredths acres in section two, township one hundred thirty-two, range one hundred five.
31. Chaboillez trading post, in Pembina state park in Pembina county, and consists of three and one-half acres in block B in Pembina.
32. Chateau de Mores, in Chateau de Mores state historic site in Billings county, and consists of one hundred twenty-eight and twenty-six hundredths acres in section twenty-seven, township one hundred forty, range one hundred two.
33. de Mores packing plant site, in Chateau de Mores state historic site in Billings county.
34. Fort Totten, twelve miles southwest of Devils Lake in Benson county, and consists of nine and twenty-three hundredths acres in section sixteen, township one hundred fifty-two, range sixty-five.
35. Fort Clark trading post, located at Fort Clark state historic site in Mercer county, and consists of forty-six and ninety-three hundredths acres in section thirty-six, township one hundred forty-four, range eighty-four.
36. Kittson trading post, located at Walhalla in Pembina county, and consists of five and eighty-eight hundredths acres in section twenty-nine, township one hundred sixty-three, range fifty-six.

37. Crowley flint quarry, located seventeen miles north of Hebron in Mercer county, and consists of two and thirty-five hundredths acres in section one, township one hundred forty-two, range ninety.
38. Double Ditch Indian village, located twelve miles north of Bismarck in Burleigh county, and consists of thirty-seven acres in sections twenty-one and twenty-two, township one hundred forty, range eighty.
39. Huff Indian village, located one mile south of Huff in Morton county, and consists of fourteen acres in sections five and eight, township one hundred thirty-six, range seventy-nine.
40. Molander Indian village, located three miles north of Price in Oliver county, and consists of a twelve-acre tract in section seventeen, township one hundred forty-two, range eighty-one.
41. Menoken Indian village, located one and one-half miles north of Menoken in Burleigh county, and consists of thirteen and seventy hundredths acres in section twenty-two, township one hundred thirty-nine, range seventy-eight.
42. Hudson historic site, in Dickey county, four miles southwest of Oakes, and consists of one and one-half acres in section six, township one hundred thirty, range fifty-nine.
43. Oak Lawn church site, in Pembina county, and consists of fifty-five hundredths acres in section nineteen, township one hundred sixty-one, range fifty-six. It marks the site of the church built by Reverend Ransom Waite in 1886.
44. Palmers spring, in Benson county near Esmond, and consists of two and eighty-three hundredths acres in section fourteen, township one hundred fifty-one, range seventy-one.
45. Brenner crossing, in Eddy county, and consists of twenty-five hundredths acres in section one, township one hundred forty-nine, range sixty-four.
46. Saint Claude, in Rolette county, and consists of forty acres in section three, township one hundred sixty-three, range seventy.
47. Standing Rock, in Ransom county, and consists of one hundredths acres, more or less, in the southwest quarter of section six, township one hundred thirty-six, range fifty-seven.

48. Wadeson site, in Barnes county, and consists of one acre in section twenty-four, township one hundred thirty-seven, range fifty-eight.
49. Sweden, in Walsh county, and consists of one hundredths acres, more or less, in section thirty-six, township one hundred fifty-eight, range fifty-four.
50. Lake Johnson, in Griggs county, and consists of four hundredths acres, more or less, in section twenty-three, township one hundred forty-five, range fifty-nine.

§ 4. State Historic Sites — Registry — State-owned Lands Administered by the State Park Service.) The land and water areas enumerated in this section are hereby designated by law as state historic sites, and this section is a registry of state historic sites situated on property owned by the state and administered by the state park service, or state historical society:

1. Fort Rice, located near the town of Fort Rice in Morton county, and consists of seven acres.
2. Whitestone Hill battlefield, site of battle of Whitestone Hill, located in Whitestone Hill state park in Dickey county, and consists of sixty-six acres.
3. Fort Abercrombie, located in Fort Abercrombie state park in Richland county, and consists of twenty-one and ninety-five hundredths acres.
4. Fort Buford, located in Fort Buford state park in Williams county, and consists of thirty-six and fifty-three hundredths acres.
5. Fort McKeen, located in Fort Abraham Lincoln state park in Morton county.
6. Fort Abraham Lincoln, located in Fort Abraham Lincoln state park in Morton county.
7. Slant Indian village, located in Fort Abraham Lincoln state park in Morton county.

§ 5. State Historic Sites — Registry — Federally Owned Lands.) The land and water areas enumerated in this section are hereby designated by law as state historic sites and this section shall be a registry of state historic sites situated on property owned by the United States government:

1. Theodore Roosevelt Maltese Cross cabin in Billings county, located within the boundaries of Theodore Roosevelt national memorial park.

2. Theodore Roosevelt Elkhorn ranch in Billings county, located within the boundaries of Theodore Roosevelt national memorial park.
3. The site of Fort Union in Williams county, located within the boundaries of Fort Union trading post.

§ 6. State Historic Sites — Registry — Privately Owned Lands.) The land and water areas enumerated in this section are hereby designated by law as state historic sites, and this section is a registry of state historic sites situated on privately owned lands:

1. Big Mound battlefield, located in Kidder county.
2. Killdeer battlefield, located in Dunn county.
3. Sheyenne Indian village site, located in Ransom county.
4. Site of first discovery of oil in North Dakota, in Williams county.

§ 7. Notice to State Historical Society of North Dakota of Land Acquisition.) Whenever the state or any governmental subdivision acquires any of the property enumerated in section 5 of this Act as a state historic site, it is the duty of the officer in charge of such acquisition to notify in writing as promptly as may be expedient, the superintendent of the state historical board of the state historical society of North Dakota as set out in section 55-01-01 of the North Dakota Century Code, of such acquisition.

§ 8. Duties of the State and Governmental Subdivisions in Regard to State Historic Sites—Prohibitions.) 1. The state, its departments and agencies, each city, village, town, county, school district, and other body corporate and politic, are by this Act notified of the existence of state historic sites on publicly owned property and on property owned by the state historical society of North Dakota as enumerated in section 3 of this Act.

2. Neither the state nor any of the instrumentalities of government enumerated in subsection 1 shall cause to alter the physical features or historic character of any site designated in section 3 as a state historic site without first obtaining the prior approval thereof from the superintendent of the state historical board of the state historical society of North Dakota as set out in section 55-01-01 of the North Dakota Century Code.

§ 9. Cooperation.) The state and its governmental subdivisions shall cooperate with the superintendent of the state historical board of the state historical society of North Dakota as

set out in section 55-01-01 of the North Dakota Century Code in safeguarding state historic sites and in the preservation of historic and archaeological sites.

§ 10. North Dakota Historic Sites—Changes.) Sites designated as state historic sites by sections 3, 4, 5, and 6 may be changed from time to time, and the superintendent of the state historical board of the state historical society of North Dakota as set out in section 55-01-01 of the North Dakota Century Code shall notify the legislative assembly of the needs for such changes and make recommendations in regard thereto so that the registries of historic sites may be kept current and complete.

Approved March 14, 1967.

TAXATION

CHAPTER 416

H. B. No. 642
(Dornacker)

DEFINITION OF REAL PROPERTY

AN ACT

To amend and reenact section 57-02-04 of the North Dakota Century Code, relating to the definition of real property, and to repeal subsections 9, 10, and 11 of section 57-02-05 of the North Dakota Century Code, relating to the definition of personal property.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **Amendment.)** Section 57-02-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-02-04. "Real Property" Defined.) Real property, for the purpose of taxation, includes the land itself, whether laid out in town lots or otherwise, and, except as otherwise provided, all buildings, structures, and improvements except plowing and trees, and all rights and privileges thereto belonging or in any-wise appertaining, and all mines, minerals, and quarries in and under the same and shall expressly include all improvements made by persons upon lands held by them under the laws of the United States, all such improvements on land the title to which still is vested in any railroad company and which is not used exclusively for railroad purposes, and improvements to land belonging to any other corporation whose property is not subject to the same mode and rule of taxation as other property.

§ 2. **Repeal.)** Subsections 9, 10, and 11 of section 57-02-05 of the North Dakota Century Code are hereby repealed.

Approved February 24, 1967.

CHAPTER 417

S. B. No. 172

(Litten, Longmire, Larson(32))

PARKING IMPROVEMENTS EXEMPT FROM TAXATION

AN ACT

To create and enact subsection 12 of section 57-02-05 and subsection 23 of section 57-02-08 of the North Dakota Century Code, relating to exempting improvements for public parking facilities, and to amend and reenact subsections 10 and 11 of section 57-02-05 and subsection 22 of section 57-02-08 of the North Dakota Century Code, relating to property classified as personal property and exemptions from taxation respectively.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Amendment.) Subsections 10 and 11 of section 57-02-05 of the North Dakota Century Code are hereby amended and reenacted and subsection 12 of section 57-02-05 of the North Dakota Century Code is hereby created and enacted to read as follows:

- *10. All such improvements upon land the title to which still is vested in any railroad company, and which is not used exclusively for railroad purposes;
- *11. The improvements of any other corporation whose property is not subject to the same mode and rule of taxation as other property; and
- 12. All structural improvements other than paving or surfacing made to land used exclusively for the business of operating an automobile parking lot within a city open for general public patronage.

§ 2. Amendment.) Subsection 22 of section 57-02-08 of the North Dakota Century Code is hereby amended and reenacted and subsection 23 of section 57-02-08 of the North Dakota Century Code is hereby created and enacted to read as follows:

- 22. All or any part of fixtures, building and improvements upon any nonfarm land up to an assessed valuation of six thousand dollars, owned and occupied as a home by a blind person. For purposes of this section a blind person shall be defined as one who is totally blind, has visual acuity of not more than 20/200 in the better eye

***Note:** Subsections 10 and 11 of section 57-02-05 were repealed by section 2 of chapter 416, 1967 S.L.

with correction, or whose vision is limited in field so that the widest diameter subtends an angle no greater than twenty degrees;

23. All structural improvements other than paving and surfacing to land used exclusively for the business of operating an automobile parking lot within a city open for general public patronage.

Approved March 14, 1967.

CHAPTER 418

H. B. No. 871
(Boustead, Schaffer)

EXEMPTION OF MOTOR VEHICLES HELD FOR RESALE
FROM TAXATION

AN ACT

To create and enact a new subsection to section 57-02-08 of the North Dakota Century Code, relating to property tax exemptions.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1.) A new subsection to section 57-02-08 of the North Dakota Century Code is hereby created and enacted to read as follows:

All new and used motor vehicle inventories held for resale by licensed motor vehicle dealers in this state.

Approved March 2, 1967.

CHAPTER 419

H. B. No. 670
(Hilleboe, Strinden)

LISTING OF PERSONAL PROPERTY

AN ACT

To amend and reenact subsection 1 of section 57-02-12 of the North Dakota Century Code, relating to the listing of personal property and to provide a consignee with a lien for the amount of tax on consigned merchandise assessed to him.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Amendment.) Subsection 1 of section 57-02-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Every person of full age and sound mind shall list all taxable personal property of which he is the owner, or which is in his possession, or under his control as guardian, parent, husband, trustee, executor, administrator, receiver, accounting officer, partner, agent, or corporation official; provided that merchandise that is held or kept for sale on consignment in a merchant's place of business shall be assessed and taxed in the name of the merchant holding or keeping the merchandise and the merchant shall have a lien upon such merchandise or upon the proceeds from the sale thereof for the amount of the tax imposed under such assessment.

Approved March 3, 1967.

CHAPTER 420

H. B. No. 558
(Dornacker)

EXEMPTION OF PERSONAL PROPERTY OF
CERTAIN ELDERLY PERSONS

AN ACT

To amend and reenact section 57-02-21 of the North Dakota Century Code, providing that persons over the age of sixty-five with an income of less than three thousand dollars per annum shall be exempt from the personal property tax, and providing a penalty for a false statement.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **Amendment.)** Section 57-02-21 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-02-21. Tax Exemption of Personal Property of Certain Persons with Minimum Income—Penalty for False Statement.)

1. The assessor shall show upon his listing blank the name of every head of a family. For the purpose of this section, any person who has one or more others dependent upon him for support shall be regarded as the head of a family. If the total value of the personal property of such person at the time of assessment does not exceed one hundred dollars, and his total income during the preceding twelve months has been less than six hundred dollars, his personal property shall be exempt from taxation. After the assessor's valuation of such property shall have been equalized, the county auditor shall cause the names of such heads of families to be removed from the tax roll as exempt from personal property taxation. The personal property of any person who receives a major part of his income from any state or federal public assistance program shall be exempt from taxation and the name of such person, if certified to the county auditor by the county welfare board, shall be removed from the personal property tax roll. Any person exempt from personal property taxation under this section, and any dependent of such person, shall also be exempt from the per capita school tax, and such tax if levied shall be canceled by the county auditor.

2. The household goods, clothing, and musical instruments of a head of a family, as defined in subsection 1 of this section, over the age of sixty-five with an income of three thousand dollars or less per annum from all sources, shall be exempt from

personal property taxation. Any person eligible for the exemption herein provided shall sign a statement that he is over the age of sixty-five and that his income does not exceed three thousand dollars per annum. Any person falsely signing such statement shall be guilty of a misdemeanor. The assessor shall attach such statement to the assessment sheet and forward a copy to the state tax department.

Approved February 27, 1967.

CHAPTER 421

S. B. No. 302
(Decker)

PERSONAL PROPERTY IN TRANSIT EXEMPT

AN ACT

To amend and reenact section 57-02-42 of the North Dakota Century Code, relating to the definition of personal property in transit and the exemption of such property from the personal property tax.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Amendment.) Section 57-02-42 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-02-42. Personal Property in Transit—Definition—Exemption.) Personal property in transit through this state means goods, wares and merchandise which are included in any one of the following numbered categories:

1. Moving in interstate commerce through or over the state of North Dakota.
2. Consigned to a warehouse or storage facility within the state from outside its boundaries for storage or assembly in transit to a final destination, whether specified when transportation begins or afterward, also outside this state.
3. Acquired or originating in this state and processed or manufactured in this state and destined for sale outside of this state or for sale and further processing or manufacturing in this state and subsequent sale outside of this state. The assessor may make a determination of the personal property, goods, wares, and merchandise destined for sale outside of this state based upon such

sales history of such items as the processor or manufacturer is able to validate through complete and accurate records and such rules and regulations as may be promulgated by the state tax department. Provided that the cleaning or grading of grain taxed pursuant to chapter 57-03 shall not constitute processing or manufacturing for the purposes of this subsection and such grain shall not be exempt under the provisions of this section.

Such personal property is deemed to have no situs in North Dakota for taxation purposes. Such property shall not be deprived of exemption because while in the warehouse it is assembled, bound, joined, processed, manufactured, disassembled, divided, cut, broken in bulk, relabeled or repackaged. The definition of personal property in transit and the exemption granted shall be liberally construed to effect the purposes of sections 57-02-42 through 57-02-44. This exemption shall be available to residents and nonresidents alike, whether individual, corporate, or otherwise.

Approved March 14, 1967.

CHAPTER 422

H. B. No. 909
(Erickson(4), Aafedt)

FILING OF TAX EXEMPTION CERTIFICATES

AN ACT

To require persons, corporations, associations, or organizations who claim real property to be exempt from assessment and taxation to file annually with the assessor and county auditor a certificate setting out the basis for claiming the exemption, and providing exceptions.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Tax Exemption Certificate for Real Property To Be Filed—Exceptions.) Any person, corporations, associations, or organizations owning real property located within a municipality which claims that such real property is exempt from assessment and taxation shall file with the assessor and with the county auditor a certificate setting out all facts on which the claim for exemption is based, including the names of owners, the date such property was acquired, the legal description, the use to which the property was put during the twelve

months preceding the assessment date, and any other information which the assessor may request. This certificate shall be filed with the assessor and the county auditor each year before the assessment date. If the certificate is not filed as provided herein, the assessor shall regard the property as nonexempt property and shall assess it as such. The provisions of this Act shall not apply in any case where the real property is owned by the United States or the state of North Dakota or any of its departments, institutions, agencies, or political subdivisions.

Approved March 6, 1967.

CHAPTER 423

S. B. No. 82

(Robinson, Jacobson, Ruemmele, Stroup, Trenbeath, Geving,
(Wenstrom)

GAME AND FISH DEPARTMENT TAX PAYMENTS

AN ACT

To amend and reenact sections 57-02.1-01 and 57-02.1-02, and subsection 1 of section 57-02.1-05 of the North Dakota Century Code, relating to payments to be made to counties in lieu of real property taxes which would otherwise be due if such property were not owned by a governmental entity and controlled by the state game and fish department.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **Amendment.**) Section 57-02.1-01 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-02.1-01. 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 or real property leased or held by lease or license from the United States or a political subdivision of this 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 for ad valorem taxation to the owner; and
2. "Value or valuation" means the true and full value or the usual selling price at a private sale between a willing buyer and a willing seller at the place where the property to which the term is applied is located as

assessed and equalized, less the valuation of any improvements to real property and of inundated land.

§ 2. **Amendment.)** Section 57-02.1-02 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-02.1-02. 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 chapter. 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, United States, or a political subdivision of this state.

§ 3. **Amendment.)** Subsection 1 of section 57-02.1-05 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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 value by one percent and deducting therefrom the amount of personal property taxes assessed against personal property having a situs upon the property subject to valuation. The payments due to each county shall be the figure determined as herein provided.

Approved February 25, 1967.

CHAPTER 424

H. B. No. 937
(Delayed Bills Committee)

ASSESSMENT OF STORED GRAINS

AN ACT

To amend and reenact section 57-03-05 of the North Dakota Century Code, relating to the assessment of grains stored in commercial elevators, warehouses, and granaries.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **Amendment.)** Section 57-03-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-03-05. Rate of Tax.) All grain grown within the state and held in elevators, warehouses, and granaries therein shall be taxed at a fixed rate as follows:

1. Flax, soybeans, edible beans, sunflower, safflower, mustard, millet, buckwheat, field peas, canary seed, rapeseed, crambe, and sorghum grain at the rate of one-half of one cent per bushel;
2. Wheat at the rate of three-eighths of one cent per bushel; and
3. Oats, barley, corn, speltz, and rye, each at the rate of one-eighth of one cent per bushel.

Approved March 6, 1967.

CHAPTER 425

H. B. 879

(Wilkie, Dornacker)

ASSESSMENT OF RAILROAD PROPERTY

AN ACT

To amend and reenact section 57-05-01 of the North Dakota Century Code, relating to the assessment of railroad property by the state board of equalization.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Amendment.) Section 57-05-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-05-01. Railroad Property To Be Assessed by State Board of Equalization.) The state board of equalization, at its annual meeting in August in each year, shall assess at its actual value, the operating property, including franchises, except that if any railroad allows any portion of its railway to be used for any purpose other than the operation of a railroad thereon, such portion of its railway while so used shall be assessed in a manner provided for the assessment of other real property, of each railroad operated in this state, including any electric or other street or interurban railway. To enable said board to make a correct valuation of such property, it shall have access to all reports, estimates, and surveys of a line of railroad on file in the office of the public service commission and shall have power to summon and compel the attendance of wit-

nesses, and to examine such witnesses under oath in any matter relating to the value of such property. In fixing the value of any such railroad, and of the branches and sidetracks thereof, the board shall be governed by the rules prescribed for county and township assessors in valuing other property in this state. The board shall make a record of the value placed by it upon the property of the railroad, including the valuation per mile of main line and of branch lines and sidetracks.

Approved March 1, 1967.

CHAPTER 426

S. B. No. 159
(Sands, Torgerson)

CORRECTIONS IN ASSESSMENT BOOKS

AN ACT

To amend and reenact section 57-14-01 of the North Dakota Century Code, relating to the duty of a county auditor to make corrections in the assessment books and tax lists when the assessor has made a clerical error in valuing real or personal property.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Amendment.) Section 57-14-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-14-01. Duty of County Auditor Upon Discovery of Clerical Error, Omission or False Statement in Assessment.) Whenever the county auditor shall discover that:

1. Taxable real or personal property has been omitted in whole or in part in the assessment of any year or years; or
2. Any building or structure has been listed and assessed against a lot or tract of land other than the true site or actual location of such building; or
3. Any person has given the assessor a false statement of his personal property; or
4. The assessor has not returned the full amount of all property required to be listed in his district, or has omitted property subject to taxation; or

5. The assessor has made a clerical error in valuing real or personal property, provided the assessor furnishes the county auditor with a written statement describing the nature of the error, which statement the county auditor shall keep on file,

he shall proceed to correct the assessment books and tax lists in accordance with the facts in the case and shall correct such error or omission in assessment, and shall add such omitted property and assess it at its true and full value, and if a building or other structure, assessed as real estate in the assessment thereof, is described as though situated upon a lot or tract of land other than that upon which it in fact is situated, the county auditor shall correct the description and add the assessment thereof to the assessment of the lot upon which it actually is located, if the rights of a purchaser for value without actual or constructive notice of such error or omission shall not be prejudiced by such correction, addition, or assessment.

Approved February 25, 1967.

CHAPTER 427

H. B. No. 826
(Strinden, Sanstead)

REASSESSMENT OF PROPERTY

AN ACT

To amend and reenact subsections 2, 3, and 4 of section 57-14-08 of the North Dakota Century Code, relating to the general reassessment of property when ordered by the board of county commissioners or state tax commissioner and the establishment of a new board of equalization to review such reassessments when ordered.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **Amendment.**) Subsections 2, 3, and 4 of section 57-14-08 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

2. The board of county commissioners then may appoint some competent citizen of this state as a special assessor who shall make a reassessment of the property specified by the board, and who shall proceed in accordance with the provisions of law governing assessors. Such special assessor shall be allowed for his services a sum not to exceed forty dollars per day plus, in the discretion of the board of county commissioners, mileage expense at

the rate allowed by law for each mile actually and necessarily traveled in the performance of his duties, which shall be audited and allowed by the board of county commissioners and paid out of the county treasury upon warrant of the county auditor. If the reassessment was ordered by the tax commissioner, such commissioner shall appoint some competent citizen of this state as a special assessor who shall make a reassessment of the property specified by the commissioner and who shall proceed in accordance with the provisions of law governing assessors. The commissioner shall audit and allow the bill, and the same shall be paid out of the county treasury. In either case, such compensation shall be charged to the political subdivision in which such reassessment was made and shall be deducted by the county treasurer from funds coming into his hands apportionable to such subdivision;

3. Upon completion of the reassessment, the assessor shall certify the same to the county auditor, who forthwith shall give notice by mail to the state tax commissioner and the board of county commissioners and the governing boards of each township, city, and school district which is wholly or partly in the reassessment district, that a reassessment has been completed in the named assessment district and that a meeting for the purpose of equalizing the assessment will be held in the county courthouse on the day and at the time specified in the notice. Each such board shall appoint one of its members to attend the equalization meeting and the tax commissioner shall attend or appoint a representative from his office to attend the meeting. Such group of persons shall comprise the special board of equalization for the reassessment. The member representing the board of county commissioners shall serve as chairman and the county auditor shall serve as secretary for such special board of equalization. Such meeting shall be held not later than thirty days from the date of the written notice of the meeting mailed by the county auditor. A notice of such special meeting and the purpose thereof shall be published at least once in the official newspaper of the county in which the reassessment was made not less than one week prior to such meeting. Each person, except the tax commissioner or his appointee, serving on this special board of equalization shall be entitled to compensation at the rate of ten dollars a day plus mileage expense and necessary expenses for meals and lodging at the rate allowed by law for attendance at such meeting. Claims therefor shall be audited and

allowed by the board of county commissioners and shall be paid, charged and deducted in the same manner as the claim of the special assessor. The claims for mileage expense and necessary expenses for meals and lodging of the tax commissioner or his appointee in attending the special equalization meeting shall be audited, allowed and paid as are other similar claims made by them.

4. At such meeting, the special board of equalization shall hear all grievances and complaints in regard to such reassessment and shall proceed to equalize the same. All tax lists thereupon shall be corrected to comply with such action.

Approved March 1, 1967.

CHAPTER 428

S. B. No. 222
(Litten, Butler)

TAX LEVY LIMITATIONS IN CITIES

AN ACT

To amend and reenact section 57-15-08 of the North Dakota Century Code, relating to tax levy limitations in cities.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **Amendment.**) Section 57-15-08 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-08. Tax Levy Limitations in Cities.) The aggregate amount levied for general city purposes shall not exceed such an amount as will be produced by a levy of thirty-one mills on the net taxable assessed valuation of property in the city, provided that in cities with a population over five thousand they be permitted to levy an additional one-half of one mill for each additional one thousand population in excess of five thousand and provided further that the maximum levy for general city purposes shall not exceed thirty-three mills, except that cities, when authorized by a majority vote of the electors of such cities upon the submission of such question at a regularly scheduled or special election called for such purpose pursuant to a resolution approved by the governing body of such cities, may increase the maximum mill levy for general city purposes by not more than five mills, and that in

a city supporting a band or public library an additional levy, not to exceed one mill on the net taxable assessed valuation of property in such city, may be made for a band, and an additional levy not to exceed four mills on the net taxable assessed valuation of property in such city may be made for a public library.

Approved March 15, 1967.

CHAPTER 429

H. B. No. 661

(E. Johnson(23), Simonson, Powers)

MILL LEVIES IN HIGH SCHOOL DISTRICTS

AN ACT

To amend and reenact subsection 3 of section 57-15-14 of the 1965 Supplement to the North Dakota Century Code, relating to mill levies in high school districts.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Amendment.) Subsection 3 of section 57-15-14 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. Any school district giving four years of standard high school work may levy taxes not to exceed thirty-four 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 four thousand 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;

Approved March 14, 1967.

CHAPTER 430

H. B. No. 886

(Ganser, Peterson(5), Hensrud, Boustead)

CITY LEVY FOR ACQUIRING REAL ESTATE

AN ACT

To amend and reenact section 57-15-44 of the North Dakota Century Code, relating to the city tax levy for acquiring real estate for public buildings, and repealing sections 57-15-45 and 57-15-46 of the North Dakota Century Code.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **Amendment.)** Section 57-15-44 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-44. City Tax Levy for Acquiring Real Estate for Public Buildings.) The governing body of any city may levy taxes annually, not in excess of two mills in each year, for a fund which shall be used for the purpose of acquiring real estate as a site for public buildings, construction of public buildings, and the furnishing of public buildings to be constructed on such sites, or for a city's participating share in urban renewal programs, such tax to be levied, spread, and collected in the same manner as are other taxes in and for such city. Whether said levy shall be discontinued shall be submitted to the voters at the next regular election upon petition of twenty-five percent of the electors voting in the last regular city election, said petition to be filed not less than sixty days before said election. If the majority of electors vote that said levy shall not continue, it may not again be levied without a majority vote of the electors at a later regular election which question may be submitted upon petition of electors as above provided for or by decision of the governing board.

§ 2. **Repeal.)** Sections 57-15-45 and 57-15-46 of the North Dakota Century Code are hereby repealed.

Approved March 15, 1967.

CHAPTER 431

S. B. No. 338

(Nasset, Coughlin, Freed, Melland, Pyle, Sands, Decker)

SCHOOL LIBRARY FUND LEVY

AN ACT

To provide that school districts may levy for a school library fund.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. School District Levy for School Library Fund.) The school board of any school district, upon the passage of a resolution, may submit the question at the next regularly scheduled or special election in the school district of providing for an annual levy of not in excess of two mills for a school library fund. If the question submitted is approved by a majority of the electors voting thereon, the school board shall proceed to make such levy, which levy shall be over and above any mill levy limitations provided by law. Upon approval of the levy for the school library fund, the school board shall create a school library fund and establish a budget for expenditures from such fund. The fund shall be kept separate and apart from other funds of the school district and shall be used exclusively for the maintenance of the school library services. Such levy may be discontinued upon the passage of a resolution by the school board, or if a petition signed by not less than twenty-five electors or five percent of the electors of the school district as indicated by the number of persons voting at the last school district election, whichever is greater, is presented to the school board, the question of discontinuance of the levy shall be submitted to the electors of the school district at any regular or special school district election. If a majority of the electors of the school district vote in favor of discontinuing the levy, such levy shall not be included in the next budget submitted by the school district.

Approved February 28, 1967.

CHAPTER 432

S. B. No. 344
(Lips)

EXCESS MILL LEVIES OF SCHOOL DISTRICTS

AN ACT

To amend and reenact section 57-16-04 of the North Dakota Century Code, relating to excess mill levies of school districts.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **Amendment.**) Section 57-16-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-16-04. Increase May Be for Five Years—Extension—Discontinuance.) The governing board of the school district may submit the question of authorizing an excess levy for the current year and not to exceed four succeeding years. The notice of election shall give the year or years for which authorization is sought for an excess levy as well as the percentage of excess which is to be voted upon. Prior to the termination of the excess levy, such levy may be extended for a term not to exceed the original term of the increase upon the unanimous approval by the governing board of the school district, and further extensions may be made for the same number of years prior to each termination date upon the unanimous approval of the governing board of the school district. The question of discontinuing such excess levy 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 ten 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 section 15-53-14 for elections for approval of school district reorganization plans.

Approved March 14, 1967.

CHAPTER 433

H. B. No. 695
(Kent, Ferguson, Bilden)

TAX COLLECTIONS AND PERSONAL LIABILITY

AN ACT

To amend and reenact section 57-19-07 of the North Dakota Century Code, relating to tax collections, and to amend and reenact section 57-19-08 of the North Dakota Century Code, relating to personal liability.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **Amendment.)** Section 57-19-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-19-07. Limitation on Amount Drawn from Fund — Tax Collections Used to Restore Fund.) The amount of outstanding, unredeemed vouchers shall never exceed in the aggregate a sum equal to eighty-five percent of the unencumbered uncollected taxes for the current and fifty percent for the four preceding years which are apportionable to the general fund of such school district. Such vouchers, in the hands of the county treasurer, shall be redeemed from the collections of such uncollected taxes. A tax shall be deemed to have been levied when it has been voted by the school board and certified to the county auditor. Whenever there are unredeemed vouchers in such voucher registry, the county treasurer shall first apply the proceeds of the collections of that portion of any unencumbered uncollected tax which would otherwise be apportionable to the general fund of the school district to the redemption of such vouchers in the order listed in such register, and shall deposit such sum in the special reserve fund and mark the voucher and the entry in the register as "redeemed", and thereupon shall return to the governing body of the school district such voucher, marked "redeemed", and signed by the county treasurer. Any balance of collections apportionable to the general fund of the school district remaining after redemption of all such vouchers, shall be paid to the school district in the manner now provided by law.

§ 2. **Amendment.)** Section 57-19-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-19-08. When Officers Personally Liable.) Any school district official knowingly and willfully causing to be issued a

voucher in excess of the limit provided in section 57-19-07, or any county treasurer honoring such a voucher, or transferring from such special reserve fund moneys in excess of eighty-five percent of the unencumbered uncollected taxes for the current and fifty percent for the four preceding years apportionable to the general fund of the school district, or paying over to the school district any such funds without the redemption of any outstanding vouchers, shall be personally liable for the sum involved.

Approved March 3, 1967.

CHAPTER 434

H. B. No. 704
(Ganser)

CONTRACTS FOR PERSONAL PROPERTY TAX COLLECTIONS

AN ACT

To amend and reenact section 57-22-29 of the 1965 Supplement to the North Dakota Century Code, relating to contracts for personal property tax collection and validating contracts for the collection of personal property taxes.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Amendment.) Section 57-22-29 of the 1965 Supplement to 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 state, 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

money 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. Validating Contracts for the Collection of Personal Property Taxes.) All contracts heretofore made and entered into by county commissioners for the collection and recovery of personal property taxes are declared legal and valid notwithstanding the provisions of law to the contrary.

Approved February 27, 1967.

CHAPTER 435

H. B. No. 883
(Solberg(2), Opedahl)

PROPERTY TAX ABATEMENT PROCEDURES

AN ACT

To amend and reenact sections 57-23-04, 57-23-05 and 57-23-08 of the North Dakota Century Code, relating to property tax abatement procedures.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Amendment.) Section 57-23-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-23-04. County Commissioners May Abate or Refund Taxes.) Upon application filed in the office of the county auditor on or before November first of the year following the year in which the tax becomes delinquent, as in this chapter provided, the board of county commissioners, subject to the approval of the state tax commissioner, may abate or refund, in whole or in part, any assessment or tax upon real or personal property, in the following cases:

1. When an error has been made in any identifying entry or description of the property, in entering the valuation thereof, or in the extension of the tax, to the injury of the complainant;

2. When improvements on any real property were considered or included in the valuation thereof which did not exist thereon at the time fixed by law for making the assessment;
3. When the complainant, or the property, is exempt from the tax;
4. When the complainant had no taxable interest in the property assessed against him at the time fixed by law for making the assessment;
5. When taxes have been erroneously paid, or errors made in noting payment, or in issuing receipts therefor;
6. When the same property has been assessed against the complainant more than once in the same year, and the complainant produces satisfactory evidence that the tax thereon for such year has been paid; and
7. When any building, structure, or other improvement or tangible personal property has been destroyed or injured by fire, flood, or tornado; provided that proper adjustment has not been made by the assessor pursuant to subsection 4 of section 57-02-11. No abatement or refund shall be made under this subsection on account of damages covered by insurance or damages amounting to less than one hundred dollars, and the abatement or refund shall be granted only for that part of the year remaining after the property was damaged or destroyed.

§ 2. **Amendment.)** Section 57-23-05 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-23-05. Application for Abatement or Refund—Who May Make.) An application for an abatement or refund shall be in writing and shall be filed in duplicate with the county auditor. It shall state the grounds relied upon for such abatement or refund, give the post office address of the applicant, and shall be verified. The county auditor shall note the date of filing and shall file the same. He shall present the application to the board of county commissioners at its next regular meeting.

Any person having any estate, right, title or interest in or lien upon any real or personal property who claims that the assessment made or the tax levied against the same is excessive or illegal, in whole or in part, shall be entitled to make an application for abatement, refund, or compromise, as the case may be, and have such application granted if the facts upon which the application is based bring it within the provi-

sions of this chapter for abatement, refund or compromise. In addition, if an abatement is based upon any of the grounds specified in section 57-23-04 and if the application for abatement will not result in a refund of tax or a compromise of a tax, the abatement application may be signed and submitted by either the county auditor or the assessor who made the assessment resulting in the tax specified in the abatement application.

§ 3. Amendment.) Section 57-23-08 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-23-08. When Action Effective.) Except as hereinafter provided the granting of any application for abatement or refund shall be effective when approved by the state tax commissioner, and when so approved the county auditor shall correct all tax lists in accordance with the order of abatement, and the applicant shall be relieved of further liability for the tax abated. The following applications for abatement or refund, however, need not be approved by the tax commissioner and they shall become effective when approved by the board of county commissioners:

1. An abatement or refund of any special assessment;
2. An abatement or refund with respect to a reduction of not more than one hundred dollars of net assessed valuation.

With respect to any application for abatement that is not required to be submitted for approval to the state tax commissioner, as provided in this section, the county auditor at the close of each calendar year shall certify to the director of the state department of accounts and purchases the amount of state taxes canceled by such action of the board of county commissioners and same shall be credited to the county.

Approved March 3, 1967.

CHAPTER 436

S. B. No. 339
(Sands, Redlin)

SALE OF COUNTY TAX DEED REAL ESTATE

AN ACT

To amend and reenact section 57-28-17 of the North Dakota Century Code, relating to the sale of county tax deed real estate by the county auditor.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Amendment.) Section 57-28-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-28-17. Sale Between Annual Sales.) All parcels of real estate not sold at the annual November sale may be sold by the county auditor at private sale at any time before the next annual November sale, but no sale shall be made by the county auditor at a price less than the minimum sale price fixed prior to the November sale. Provided, however, that a parcel of real estate against which one or more unpaid installments of any special assessment continue as a lien pursuant to section 57-28-09 may be sold by the county auditor free of any part or all of such lien if the governing body of the city in which the parcel is located finds that the minimum sale price fixed by law for the parcel together with the special assessment lien or liens against it exceed the market value of the parcel; in such a case the governing body of the city is hereby authorized to cancel all or such part of any special assessment lien against the parcel to an amount which, when added to the minimum sale price, will be equal to the market value of the parcel; the action of the governing body shall be certified by the city auditor or clerk to the county auditor, after which the county auditor may sell the parcel at private sale at any time before the next annual November sale for not less than the minimum sale price fixed by law; the parcel shall pass to the purchaser free from any encumbrance for that part of any lien for special assessment that was canceled by the governing body of the city.

Notwithstanding the provisions of this section or other provisions of law, any such parcel of real estate that is subject to a special assessment lien for improvements made by a city may be sold between annual sales by the county auditor for

cash to the city at whatever price less than the minimum sales price that is agreed upon by the board of county commissioners and the governing body of the city.

Approved March 14, 1967.

CHAPTER 437

H. B. No. 882
(Wilkie, Dornacker, Backes)

TELEPHONE COMPANY TAX REPORTS

AN ACT

To amend and reenact sections 57-34-02 and 57-34-03 of the 1965 Supplement to the North Dakota Century Code, relating to reports of telephone companies of taxes to be assessed against them.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Amendment.) Section 57-34-02 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-34-02. Reports of Telephone Companies.) Each telephone company required to be assessed under the provisions of this chapter, annually, under oath of the president, secretary, or other official of such company, shall make and file with the tax commissioner, on or before May first, on such form as the tax commissioner may prescribe, a report containing a statement of its telephone operating receipts in this state during the preceding calendar year, the number of stations in service on December thirty-first preceding, the number of miles of telephone line operated in providing telephone service, and such other information as the tax commissioner may require except that any telephone company having thirty telephone stations or less in service on December thirty-first preceding shall not be required to furnish a statement of its telephone operating receipts. Each report shall contain a statement of the number of stations located in each county served and each school district within such counties and the number of stations maintained per mile of telephone line in this state. Each telephone company subject to the provisions of this chapter, at the time of submitting its report to the tax commissioner, shall forward a copy of such report to the county auditor of each county in which it maintains a station or stations.

§ 2. Amendment.) Section 57-34-03 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-34-03. Computation of Taxes by Tax Commissioner.)

On or before August first of each year, the tax commissioner shall compute the total tax to be assessed against each telephone company in this state in the following manner:

1. Telephone companies maintaining an average of one and twenty-five hundredths telephone stations or less per mile of telephone line operated in this state shall be taxed at the rate of one-half of one percent of their telephone operating receipts;
2. Telephone companies maintaining an average of not less than one and twenty-six hundredths and not more than one and seventy-five hundredths telephone stations per mile of telephone line operated in this state shall be taxed at the rate of one percent of their operating receipts;
3. Telephone companies maintaining an average of not less than one and seventy-six hundredths and not more than two and twenty-five hundredths telephone stations per mile of telephone line operated in this state shall be taxed at the rate of one and one-half of one percent of their operating receipts;
4. Telephone companies maintaining an average of more than two and twenty-five hundredths telephone stations per mile of telephone line operated in this state shall be taxed at the rate of two percent of their operating receipts.

Notwithstanding the provisions of subsections 1 through 4 of this section, if the tax due from any telephone company taxed under the provisions of this chapter shall be less than fifty cents per station maintained in this state, such company shall be subject to a tax of fifty cents per station, and, further, notwithstanding the provisions of subsection 1 through 4 of this section, any telephone company having thirty telephone stations or less on December thirty-first preceding the year for which the tax computed under this section is assessed shall be subject to a tax of fifty cents per station.

Approved February 24, 1967.

CHAPTER 438

H. B. No. 729

(Fossum, Freeman, Aamoth)

TAXATION OF BANKS, TRUST COMPANIES, AND
BUILDING AND LOAN ASSOCIATIONS

AN ACT

To amend and reenact sections 57-35-04 and 57-35.1-02 of the North Dakota Century Code, relating to the taxation of banks, trust companies, and building and loan associations.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Amendment.) Section 57-35-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-35-04. Basis of Tax.) The liability for the tax imposed by this chapter shall arise upon the first day of each calendar year, and shall be based upon and measured by the net income of each bank or trust company for the preceding calendar year, including the amount of its income from tax exempt securities for such year as returned to the tax commissioner and county auditor, and the tax thereon shall be computed at the rate of five percent, but the minimum tax assessable to any one taxpayer shall be fifty dollars.

§ 2. Amendment.) Section 57-35.1-02 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-35.1-02. Imposition and Basis of Tax.) An annual tax is hereby imposed upon each building and loan association, for the grant to it of the privilege of transacting, or for the actual transacting by it, of business within this state during any part of each tax year, commencing January 1, 1961. This tax is in lieu of all other taxes or impositions, state, county, and local, except taxes upon the real property of any association, and shall be based upon and measured by the net income of each association for the preceding calendar year. The amount of the tax shall be computed by the tax commissioner at the rate of five percent of such net income. Regardless of such computation, the minimum tax assessable hereunder to any association shall be fifty dollars. The liability for the tax imposed by this chapter shall arise upon the first day of each calendar year following the year for which the net income is used as the base for measuring the tax.

Approved March 1, 1967.

CHAPTER 439

H. B. No. 583
(Boustead, Wagner)

ADMINISTRATION OF CIGARETTE AND TOBACCO TAX

AN ACT

To create and enact subsection 3 of section 57-36-11 of the 1965 Supplement to the North Dakota Century Code and to amend and reenact section 57-36-24, subsection 2 of section 57-36-26 and subsection 2 of section 57-36-29 of the 1965 Supplement to the North Dakota Century Code, relating to the administration of the taxation of cigarettes and other tobacco products.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1.) Subsection 3 of section 57-36-11 of the 1965 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

3. In instances where it is inappropriate, for any reason, for the tax commissioner to designate the county auditor of any county of this state as his representative for the setting of tax meter machines for any particular distributor and for the collection of the cigarette tax due upon each such setting the tax commissioner may delegate such responsibility to an individual or a corporate setting agent within or without this state. Any individual or corporation as designated shall transmit each amount of tax collected and report each meter machine's setting to the tax commissioner on or before the next business day, provided that a business day shall not include Saturday; the setting agent shall perform such duties in accordance with the procedure prescribed by the tax commissioner. Before commencing the duties of a setting agent, the setting agent shall submit to the tax commissioner a bond in the amount to be set by the tax commissioner. Any setting agent when designated by the tax commissioner pursuant to this section shall receive from the distributor for his services for setting a meter machine a fee to cover the cost of that portion of a bond which shall be attributable to any particular distributor plus a reasonable fee for the setting of the tax meter as determined by agreement between the setting agent, the distributor and the tax commissioner.

§ 2. **Amendment.)** Section 57-36-24 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-36-24. Exemptions.) All gift cigarettes, snuff, cigars and other tobacco products, not for resale, which are given

to the North Dakota soldiers' home or the North Dakota state hospital for distribution to the occupants thereof, shall be exempt from the excise taxes levied under the provisions of this chapter.

§ 3. Amendment.) Subsection 2 of section 57-36-26 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. If cigars or snuff 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 eleven percent of the wholesale purchase 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, snuff and other tobacco products imposed by this state which is substantially similar in effect to the credit allowed by this subsection.

§ 4. Amendment.) Subsection 2 of section 57-36-29 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. Whenever a distributor destroys cigarettes, cigars, snuff and other tobacco products accidentally, or intentionally, because of staleness or other unfitness for sale, a credit or refund shall be given to the wholesaler under the terms and conditions prescribed by the tax commissioner.

Approved March 3, 1967.

CHAPTER 440

S. B. No. 243

(Chesrown, Longmire, Holand)

GROSS ESTATE OF RESIDENT DECEDENT

AN ACT

To amend and reenact subsection 3 of section 57-37-02 of the North Dakota Century Code, relating to gross estate of resident decedent.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Amendment.) Subsection 3 of section 57-37-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. All intangible personal property wherever located, except that the value of an annuity or other payment receivable by any beneficiary by reason of surviving the decedent under any form of contract or agreement other than as insurance under policies on the life of the decedent shall be included in the gross estate of any decedent dying after June 30, 1967, only to the extent that it is or would be includible for federal estate tax purposes pursuant to the provisions of section 2039 of the United States Internal Revenue Code of 1954, as amended, through December 31, 1966;

Approved March 8, 1967.

CHAPTER 441

S. B. No. 80

(Longmire)

DEFINITION OF INTERNAL REVENUE CODE

AN ACT

To amend and reenact subsection 2 of section 57-37-07 of the 1965 Supplement to the North Dakota Century Code, relating to the definition of powers of appointment for estate tax purposes.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Amendment.) Subsection 2 of section 57-37-07 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. For the purposes of this section, the term "United States Internal Revenue Code of 1954, as amended" means the United States Internal Revenue Code of 1954 as amended to and including December 31, 1966.

Approved February 3, 1967.

CHAPTER 442

S. B. No. 193
(Holand, Meschke)

ADMINISTRATION OF ESTATE TAX LAWS

AN ACT

To amend and reenact subdivision k of subsection 2 of section 57-37-11, sections 57-37-15 and 57-37-17, subdivisions c of subsection 3 of section 57-37-21 of the North Dakota Century Code, relating to the administration of the estate tax law.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Amendment.) Subdivision k of subsection 2 of section 57-37-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- k. If under this subsection an interest would, in the absence of a disclaimer by any person other than the surviving spouse, be considered as passing from the decedent to such person, and if a disclaimer of such interest is made by such person and as a result of such disclaimer the surviving spouse is entitled to receive such interest, then such interest shall, for the purposes of this subsection, be considered as passing to the surviving spouse.

§ 2. Amendment.) Section 57-37-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-37-15. Court to Furnish Report to Tax Commissioner and Give Notice of Assessment.) The county court shall furnish to the tax commissioner:

1. An original and one copy of the application for determination of estate taxes in the gross estate of each decedent;
2. A copy of the inventory and appraisement;

3. A statement of all taxable transfers made by the decedent that have come to the court's knowledge;
4. A copy of the order of the court assessing the tax;
5. A copy of the decedent's will, if any, in a probate proceeding; and
6. Such other information contained in the records and files of the court as the tax commissioner shall require.

The court at the same time, shall notify the executor, administrator, trustee or other person interested in the estate of the amount of such assessment, but failure to receive such notice from the county court shall not excuse the non-payment of the tax nor invalidate the tax in any way.

§ 3. **Amendment.)** Section 57-37-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-37-17. Preliminary Appraisal Where No Probate Commenced.) In all cases wherein the county court has reason to believe that a decedent's estate may be subject to assessment under the provisions of this chapter, and no probate proceeding has been instituted within sixty days following the death of the decedent, the court shall cite one or more of the probable beneficiaries to appear and show cause why estate taxes should not be imposed under the provisions of this chapter, and in its discretion may appoint one or more appraisers who immediately shall appraise the property of any resident decedent within the county. Such appraisal shall be preliminary and may be amended by adding thereto any property found to be the property of decedent, during the administration of decedent's estate, or by deducting therefrom any property listed which is found not to be the property of the decedent. Such appraisal, in the discretion of the court, may be made final and may serve all purposes for the administration of the estate. The appraisers so appointed shall be paid out of the funds of the estate and the amount to be paid for each estate examined or appraised shall be determined by the county court, together with the actual and necessary traveling expenses.

§ 4. **Amendment.)** Subdivision c of subsection 3 of section 57-37-21 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

- c. The election provided for in this subsection shall be exercised by the executor, administrator, trustee, or other person responsible for obtaining a determina-

tion of the tax imposed by this chapter, on his return if filed within fifteen months after the date of the decedent's death.

Approved March 14, 1967.

CHAPTER 443

S. B. No. 99
(Longmire)

ASSETS IN DECEDENT'S ESTATE

AN ACT

To amend and reenact section 57-37-29 of the 1965 Supplement to the North Dakota Century Code, relating to the retention and condition for transfer of assets in a decedent's estate.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **Amendment.)** Section 57-37-29 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-37-29. Depositories — Retention of Decedent's Assets — Conditions for Transfer or Release.) 1. No safe deposit company, trust company, corporation, bank, or other institution or person having possession, control, custody, or partial control or custody of any securities, deposits, or other assets, including shares of the capital stock of, or other interest in, such safe deposit company, trust company, corporation, bank, or other institution, standing in the name of a resident or nonresident decedent, or belonging to or standing in the joint name of such decedent and one or more other persons, shall deliver or transfer the same to the executor, administrator, or other legal representative, agent, deputy, attorney, trustee, legatee, heir, surviving joint owner, or any other successor in interest of such decedent, without retaining a sufficient amount of such assets to pay any tax which thereafter may be assessed thereon under this chapter, unless notice of the time and place of a proposed delivery or transfer of the assets is filed in the county court at least thirty days prior to delivery. The county court, however, by order, may direct a delivery of such assets, and such order shall relieve such safe deposit company, trust company, corporation, bank, or other institution or person from the obligation of retaining any portion of such assets and of giving notice of the delivery thereof. The county court may appoint appraisers as provided in section 57-37-17 to examine and appraise such assets at the time of the delivery thereof.

2. In the case of joint bank or savings accounts, or joint building and loan or savings and loan association share or savings accounts, the amount of assets required to be retained under this provision need in no event exceed an amount equal to the total amount of the deposit or shares divided by the number of joint owners. Such bank or building and loan or savings and loan association may and shall, upon demand, pay the remainder of such account or shares to the surviving joint owners and shall thereafter be absolved of any liability to the state for any amount so paid or any tax assessed under this chapter in excess of the amount required to be retained. In the instance of bank or savings accounts, or building and loan shares standing in the name of one or more persons, no fine, penalty or tax liability shall be assessed on account of any excess payment thereof to the survivor or survivors unless it is shown that such payment was knowingly and willfully made in violation of the terms and provisions hereof.

3. In the case of an insurer paying proceeds of a life insurance contract in which the decedent had an incident of ownership, determined pursuant to the provisions of section 57-37-02 of this chapter, no notice or order of the county court shall be required. The insurer may pay the proceeds of the life insurance contract to the stated beneficiary in the contract immediately, however, the insurer shall give the tax commissioner notice of the amount paid pursuant to the contract and any other information required by the tax commissioner regardless of the amount of the contract. Such notice shall be filed with the tax commissioner within thirty days from the date of payment.

Approved March 14, 1967.

CHAPTER 444

S. B. No. 176
(Becker)

DEFINITION OF "TAXABLE INCOME"

AN ACT

To amend and reenact subsection 20 of section 57-38-01 of the North Dakota Century Code, relating to definitions for income tax purposes.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Amendment.) Subsection 20 of section 57-38-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- *20. "Taxable income" in the case of individuals, estates, trusts and corporations shall mean the taxable income as computed for an individual, estate, trust or corporation for federal income tax purposes under the United States Internal Revenue Code of 1954 as amended, plus or minus such adjustments as may be provided by this chapter or other provisions of law;

Approved February 21, 1967.

*Note: Subsection 20 of section 57-38-01 was also amended by section 2 of chapter 446, 1967 S.L.

CHAPTER 445

S. B. No. 139
(Becker, Torgerson)

INCOME TAX DEFINITIONS

AN ACT

To amend and reenact subsection 21 of section 57-38-01 of the 1965 Supplement to the North Dakota Century Code, relating to income tax definitions, and declaring an emergency.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Amendment.) Subsection 21 of section 57-38-01 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

21. a. "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, 1966.
- b. Those provisions of the United States Internal Revenue Code of 1954, as amended, which are adopted for the purposes of this chapter and which apply to returns required to be filed under that Code for the calendar year 1966 and for fiscal years ended during 1966 shall also apply to returns required to be filed under the provisions of this chapter for the same periods.

§ 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 22, 1967.

CHAPTER 446

S. B. No. 393
(Meschke, Rait)

INCOME TAX LAW REVISION AND SIMPLIFICATION

AN ACT

Declaring legislative intent to simplify income tax and to eliminate certain interstate tax problems; to create and enact a new section to chapter 57-38 of the North Dakota Century Code, relating to adjustments to taxable income for individuals and fiduciaries; to create and enact a new section to chapter 57-38 of the North Dakota Century Code, relating to adjustments to taxable income for corporations; to create and enact a new section to chapter 57-38 of the North Dakota Century Code, relating to the recognition of an election made under subchapter S of the Internal Revenue Code of 1954, as amended; to create and enact a new section to chapter 57-38 of the North Dakota Century Code, relating to an optional card income tax return; to amend and reenact subsection 20 of section 57-38-01 of the North Dakota Century Code, relating to definitions for income tax purposes; to amend and reenact section 57-38-06 of the North Dakota Century Code, relating to nonresidents; to repeal sections 57-38-15, 57-38-15.1, 57-38-15.2, 57-38-15.3, 57-38-16, 57-38-17, 57-38-17.1, 57-38-18, 57-38-19, 57-38-20, 57-38-21, 57-38-22, 57-38-22.1, 57-38-24, 57-38-26, 57-38-27, and 57-38-28 of the North Dakota Century Code; and providing an effective date.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Declaration of Legislative Intent.) It is the intent of the legislative assembly to simplify the state income tax laws and to demonstrate that federal legislation is not necessary to deal with certain interstate tax problems, by adopting the federal definition of taxable income as the starting point for the computation of state income tax by all taxpayers and providing the necessary adjustments thereto to substantially preserve and maintain existing exemptions and deductions.

It is the further intent of the legislative assembly to eliminate double taxation of the earnings of small corporations by recognizing a subchapter S election when made for federal income tax purposes.

§ 2. Amendment.) Subsection 20 of section 57-38-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

*20. "Taxable income" in the case of individuals, estates, trusts and corporations shall mean the taxable income

*Note: Subsection 20 of section 57-38-01 was also amended by section 1 of chapter 444, 1967 S.L.

as computed for an individual, estate, trust or corporation for federal income tax purposes under the United States Internal Revenue Code of 1954, as amended, plus or minus such adjustments as may be provided by this Act and chapter or other provisions of law;

§ 3. Amendment.) Section 57-38-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

***57-38-06. General Provisions Applicable to Nonresidents.)** The provisions of law applicable to the assessment, levy, and collection of income taxes from resident individuals, as to income, taxable income, adjustments to taxable income, and the allocation or proration of any such items, and all other provisions not inconsistent with the provisions of this chapter especially made applicable to nonresidents, shall govern the levy and collection of income taxes from nonresident individuals.

§ 4. Amendment.) Chapter 57-38 of the North Dakota Century Code is hereby amended by creating and enacting thereto a new section to read as follows:

Adjustments to Taxable Income for Individuals and Fiduciaries.) 1. The taxable income of an individual, estate or trust as computed pursuant to the provisions of the United States Internal Revenue Code of 1954, as amended, shall be:

- a. Reduced by any interest received from obligations of the United States that is included in taxable income or in the computation thereof on the federal return.
- b. Reduced by any other income included in the taxable income, or in the computation thereof, on the federal return which is exempt from taxation by this state because of the provisions of the Constitution of this state or the United States.
- c. Reduced by the amount of federal income taxes, but not social security and self-employment taxes, plus income taxes of foreign countries, paid or accrued as the case may be during the applicable tax year, adjusted by any federal or foreign tax refunds, to the extent that such taxes were paid or accrued upon income which becomes a part of the North Dakota taxable income.
- d. Reduced by three hundred dollars if the return filed is a joint return by husband and wife. If separate

***Note:** Section 57-38-06 was also amended by section 1 of chapter 447, 1967 S.L.

returns are filed by husband and wife no deduction can be taken under this subsection. This subsection shall not be applicable to estates or trusts.

- e. Reduced by the actual amount of the medical expenses that were incurred but not allowed on the federal return by reason of the federal medical deduction limitation.
- f. Increased by the amount of any income taxes, or franchise or privilege taxes measured by income, to the extent that such taxes were deducted to determine federal taxable income.
- g. Increased by the amount of any interest and dividends from foreign securities and from securities of state and their political subdivisions exempt from federal income tax, provided that interest upon obligations of the state of North Dakota or any of its political subdivisions shall not be included.
- h. Reduced by the amount of net income not allocated and apportioned to this state under the provisions of chapter 57-38.1, but only to the extent that the amount of net income not allocated and apportioned to this state under the provisions of that chapter is not included in any adjustment made pursuant to the preceding subdivisions.
- i. Reduced by any dividends or income received from stock or interest in any corporation and included in the adjusted gross income as computed for federal income tax purposes where the income of such corporation has been assessed and tax paid by the corporation under this chapter and such dividends or income was received by the taxpayer as income during the income year if such corporation has reported the name and address of each North Dakota resident owning stock and the amount of dividends or income paid each such person during the year, provided, that when only part of the income of any corporation shall have been assessed and corporation income tax paid thereon under this chapter, only a corresponding part of the dividends or income received therefrom and included in federal adjusted gross income shall be subtracted. The commissioner is hereby authorized to prescribe rules and regulations to implement this subdivision to avoid injustice to taxpayers, to prevent duplication of deductions and to eliminate taxation of income not fairly and properly taxable under this chapter.

Provided, however, that each adjustment in the above subdivisions authorized under law shall be allowed only to the extent that the adjustment is allocated and apportioned to North Dakota income.

2. The tax commissioner is hereby authorized to prescribe rules and regulations to prevent requiring income that had been previously taxed under this chapter from being taxed again because of the provisions of this Act and to prescribe rules and regulations to prevent any income from becoming exempt from taxation because of the provisions of this Act if it would otherwise have been subject to taxation under the provisions of this chapter.

§ 5. Amendment.) Chapter 57-38 of the North Dakota Century Code is hereby amended by creating and enacting thereto a new section to read as follows:

Adjustments to Taxable Income for Corporations.) 1. The taxable income of a corporation as computed pursuant to the provisions of the Internal Revenue Code of 1954, as amended, shall be:

- a. Reduced by any interest received from obligations of the United States that is included in taxable income or in the computation thereof on the federal return.
- b. Reduced by any other income included in the taxable income, or in the computation thereof, on the federal return, which is exempt from taxation by this state because of the provisions of the Constitution of this state or the United States.
- c. Reduced by the amount of federal income taxes, but not social security and self-employment taxes, plus income taxes of foreign countries, paid or accrued as the case may be during the applicable tax year, adjusted by any federal or foreign tax refunds, to the extent that such taxes were paid or accrued upon income which becomes a part of the North Dakota taxable income.
- d. Increased by the amount of any income taxes, or franchise or privilege taxes measured by income, to the extent that such taxes were deducted to determine federal taxable income.
- e. Increased by the amount of any interest and dividends from foreign securities and from securities of state and their political subdivisions exempt from federal income tax, provided that interest upon obligations of the state of North Dakota or any of its political subdivisions shall not be included.

- f. Reduced by the amount of net income not allocated and apportioned to this state under the provisions of chapter 57-38.1, but only to the extent that the amount of net income not allocated and apportioned to this state under the provisions of that chapter is not included in any adjustment made pursuant to the preceding subdivisions.
- g. Reduced by dividends or income received by any person from stock or interest in any corporation, the income of which has been assessed and paid by a corporation under this chapter, received by the taxpayer and included in the gross income within the income year if such corporation has reported the name and address of each person owning stock and the amount of dividends or income paid each such person during the year, but when only part of the income of any corporation shall have been assessed and income tax paid under this chapter, only a corresponding part of the dividends or income received therefrom shall be deducted.

Provided, however, that each adjustment in the above subdivisions authorized under law shall be allowed only to the extent that the adjustment is allocated and apportioned to North Dakota income.

2. The tax commissioner is hereby authorized to prescribe rules and regulations to prevent requiring income that had been previously taxed under this chapter from being taxed again because of the provisions of this Act and to prescribe rules and regulations to prevent any income from becoming exempt from taxation because of the provisions of this Act if it would otherwise have been subject to taxation under the provisions of this chapter.

§ 6. Amendment.) Chapter 57-38 of the North Dakota Century Code is hereby amended by creating and enacting thereto a new section to read as follows:

Optional Card Income Tax Return.) The tax commissioner is hereby authorized to prescribe an optional card income tax return to permit taxpayers to simplify the filing of income tax returns required by this chapter.

§ 7. Amendment.) Chapter 57-38 of the North Dakota Century Code is hereby amended by creating and enacting thereto a new section to read as follows:

Recognition of Subchapter S Election.) For the purposes of this Act and chapter, any person as defined in section 57-38-01 and required to file a North Dakota income tax return

who makes an election under subchapter S of the Internal Revenue Code of 1954, as amended, for federal income tax purposes shall have such status recognized and such person's taxable income shall be computed as provided in subchapter S of the Internal Revenue Code of 1954, as amended, with the adjustments allowed by this Act or chapter or other provisions of law.

§ 8. Repeal.) Sections 57-38-15, 57-38-15.1, 57-38-15.2, 57-38-15.3, 57-38-16, 57-38-17, 57-38-17.1, 57-38-18, 57-38-19, 57-38-20, *57-38-21, 57-38-22, 57-38-22.1, 57-38-24, 57-38-26, 57-38-27, and 57-38-28 of the North Dakota Century Code are hereby repealed.

§ 9. Effective Date.) The provisions of this Act shall apply to all taxable years beginning on or after January 1, 1967.

Approved March 14, 1967.

*Note: Section 57-38-21 was amended by section 1 of chapter 451, 1967 S.L.

CHAPTER 447

S. B. No. 178
(Becker)

APPLICATION OF INCOME TAX LAWS TO NONRESIDENTS

AN ACT

To amend and reenact section 57-38-06 of the North Dakota Century Code, relating to application of income tax law to nonresident.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Amendment.) Section 57-38-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

***57-38-06. General Provisions Applicable to Nonresidents.)** The provisions of law applicable to the assessment, levy, and collection of income taxes from resident individuals, as to income, taxable income, adjustments to taxable income, and the allocation or proration of any of such items, and all other provisions not inconsistent with the provisions of this chapter

*Note: Section 3 of chapter 446, 1967 S.L., also amended section 57-38-06.

especially made applicable to nonresidents, shall govern the levy and collection of income taxes from nonresident individuals.

Approved February 21, 1967.

CHAPTER 448

H. B. No. 867
(Backes)

INCOME TAX EXEMPTIONS FOR NONRESIDENTS

AN ACT

To create and enact a new section to chapter 57-38 of the North Dakota Century Code, relating to exemption for nonresident individual.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1.) A new section to chapter 57-38 of the North Dakota Century Code is hereby created and reenacted to read as follows:

Exemptions for Nonresident Individual.) Notwithstanding any other provisions of law, nonresident individuals shall be permitted to deduct from net income the exemptions provided in section 57-38-26 as prorated by the ratio that the North Dakota income bears to the total income of the nonresident individual.

Approved February 27, 1967.

CHAPTER 449

S. B. No. 177
(Becker)

INCOME TAX ON FIDUCIARIES

AN ACT

To amend and reenact section 57-38-07 of the North Dakota Century Code, relating to income tax on fiduciaries.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **Amendment.)** Section 57-38-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-38-07. Tax Imposed on Fiduciaries—A Charge Against Estate or Trust.) The tax imposed by this chapter shall apply to and become a charge against estates and trusts with respect to their taxable income as defined in this chapter, and the rates shall be the same as those applicable to individuals. The fiduciary shall be responsible for making the return of income for the estate or trust for which he acts, whether such income be taxable to the estate or trust or to the beneficiaries thereof. Fiduciaries required to make returns shall be subject to all of the provisions of this chapter which apply to individuals.

Approved February 27, 1967.

CHAPTER 450

H. B. No. 768
(Aas)

FILING OF EXEMPTION CERTIFICATES

AN ACT

Relating to the filing of exemption affidavits with the tax commissioner by organizations exempt from income tax.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **Organizations Exempt from Income Tax—File Affidavit.)** Any organization exempt from taxation pursuant to section 57-38-09 must on or before April 15 of each year file an affidavit with the tax commissioner in such form and man-

ner as may be prescribed by the tax commissioner containing such information as is necessary to enable him to determine the exempt status of the organization.

Approved February 24, 1967.

CHAPTER 451

S. B. No. 135

(Lips)

COMPUTATION OF NET INCOME

AN ACT

Amending and reenacting section 57-38-21 of the 1963 Supplement to the North Dakota Century Code, relating to the definition of and computation of net income.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Amendment.) Section 57-38-21 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

***57-38-21. "Net Income" Defined — Computation.)** In the case of corporations other than regulated investment companies as defined in section 851 of the Federal Internal Revenue Code of 1954, as amended, the phrase "net income" means the gross income of corporations as defined in this chapter, less the allowable deductions; in the case of regulated investment companies as defined in section 851 of the Federal Internal Revenue Code of 1954, as amended, the phrase "net income" means investment company taxable income as defined in section 852 of the Federal Internal Revenue Code of 1954, as amended; in the case of individuals, the phrase "net income" means the adjusted gross income as computed for federal income tax purposes under the United States Internal Revenue Code of 1954, as amended, with adjustments; in the case of estates or trusts the phrase "net income" means the taxable income as computed for federal income tax purposes, plus the federal personal exemption deduction, and with adjustments. Adjustments for individuals and estates or trusts shall be as follows:

1. Subtract interest and dividends from federal securities.

***Note:** Section 57-38-21 was repealed by section 8 of chapter 446, 1967 S.L. This repeal is effective for taxable years commencing on January 1, 1967.

2. Add interest and dividends from foreign securities and from securities of state and other political subdivisions exempt from federal income tax, provided that interest upon obligations of the state of North Dakota or any political subdivision thereof shall not be added.
3. Where the adjusted gross income includes capital gains or losses from property other than capital assets, and such gains or losses have been determined by using a basis established prior to January 1, 1919, an adjustment may be made under rules and regulations prescribed by the state tax commissioner to reflect the difference resulting from the use of a basis of cost or January 1, 1919, fair market value, less depreciation allowed or allowable, whichever is higher. Provided, however, that the basis shall be fair market value as of January 1, 1959, less depreciation allowed or allowable in case of property acquired prior to that date if use of a pre-1919 basis is declared to be invalid.
4. Where an individual is permitted to file as a corporation under the provisions of the Internal Revenue Code of 1954, as amended, such fictional status shall not be recognized and such individual's taxable income shall be computed as required under the provisions of the Internal Revenue Code of 1954 as amended, relating to individuals not filing as corporations, with the adjustments, deductions, and exemptions allowed by this chapter.
5. Where the federal adjusted gross income includes gains from property dealings in an earlier year, on which gains a North Dakota income tax return was made for such earlier year, adjustments shall be made under rules and regulations of the tax commissioner where necessary to prevent multiple state taxation with respect to the taxable event.
6. Where the federal adjusted gross income has not been reduced by depreciation allowances available on state returns under prior law but exhausted on federal returns due to differences in depreciation plans or schedules, adjustments shall be made under rules and regulations of the tax commissioner to prevent inequitable state taxation.
7. Where the federal adjusted gross income has not been reduced by losses available on state returns under prior law previously exhausted on federal returns due to differences in carry-back and carry-over provisions,

adjustments shall be made under rules and regulations of the tax commissioner to prevent inequitable state taxation.

8. Subtract any dividends or income received from stock or interest in any corporation and included in the adjusted gross income as computed for federal income tax purposes where the income of such corporation has been assessed and tax paid by the corporation under this chapter and such dividends or income was received by the taxpayer as income during the income year if such corporation has reported the name and address of each North Dakota resident owning stock and the amount of dividends or income paid each such person during the year, provided, that when only part of the income of any corporation shall have been assessed and corporation income tax paid thereon under this chapter, only a corresponding part of the dividends or income received therefrom and included in federal adjusted gross income shall be subtracted.

The commissioner is hereby authorized to prescribe rules and regulations to implement this section to avoid injustice to taxpayers, to prevent duplication of deductions and to eliminate taxation of income not fairly and properly taxable under this chapter.

Approved February 22, 1967.

CHAPTER 452

S. B. No. 175
(Becker)

TAX RATE ON CORPORATIONS

AN ACT

To amend and reenact section 57-38-30 of the North Dakota Century Code, relating to the rate of tax on corporations.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Amendment.) Section 57-38-30 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-38-30. Rate of Tax on Corporations.) A tax is hereby imposed upon the taxable income of every domestic and foreign corporation received from the sources described in

sections 57-38-12, 57-38-13, and 57-38-14, which shall be levied, collected, and paid annually as in this chapter provided, and which shall be computed at the following rates:

1. For the first three thousand dollars of taxable income, at the rate of three percent;
2. On all taxable income above three thousand dollars and not in excess of eight thousand dollars, at the rate of four percent;
3. On all taxable income above eight thousand dollars and not in excess of fifteen thousand dollars, at the rate of five percent;
4. On all taxable income above fifteen thousand dollars, at the rate of six percent.

Approved February 27, 1967.

CHAPTER 453

S. B. No. 276
(Becker)

INCOME TAX RETURNS

AN ACT

To amend and reenact section 57-38-31 and 57-38-32 of the North Dakota Century Code, relating to the duty of individuals and corporations to make return.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **Amendment.**) Section 57-38-31 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-38-31. Duty of Individuals and Fiduciaries to Make Return.) 1. Every resident individual, every fiduciary for a resident individual, estate or trust, and every individual or fiduciary who receives income derived from sources in this state, who is required by the provisions of the United States Internal Revenue Code of 1954, as amended, to file a federal income tax return, shall file an income tax return with the state tax commissioner in such form as he may prescribe. Any person required to file an income tax return pursuant to the provisions of the United States Internal Revenue Code of 1954, as amended, with respect to income that is exempt from taxation under this chapter either because it cannot be constitution-

ally taxed or because it is exempt by any provision of law shall file a return prescribed by the tax commissioner in such form as will permit computation of the tax liability under this chapter on only that part of the income which is subject to taxation pursuant to the provisions of this chapter, provided that such person elects to use that form of return rather than any other form of return that may be prescribed. The return shall be signed by the person required to make it and shall contain a written declaration that it is made and subscribed under penalties of perjury.

2. A husband and wife each having separate income may include their income in a single joint return, or if they have separate income from personal or professional services or from business or property in which the other has no ownership and if they file a joint federal income tax return in which such income is reported, they may file separate returns in which the separate income of each and the deductions and exemptions for themselves or their dependents are reported in the same way that they would have been required to report them in separate federal returns if they had filed separate federal returns.

A husband and wife who have income from property or business in which both have an ownership interest may file a single joint return in which the income of both, along with any other income they may be required to report, is included, or they may file separate returns in the same way as provided in the preceding paragraph, provided that the income from the property or business in which both have an ownership interest shall be allocated between them according to the capital interest of each, the management and control exercised by each, and the services performed by each with respect to such property or business, pursuant to rules and regulations promulgated by the tax commissioner for the reasonable allocation thereof.

3. If the taxpayer is unable to make his own return, the return shall be made by a duly authorized agent or by a guardian or other person charged with the care of the person or property of the taxpayer.

4. Every fiduciary subject to taxation under the provisions of this chapter shall make a return for the individual, estate or trust for which he acts, if he is required to make a return pursuant to the provisions of the United States Internal Revenue Code of 1954, as amended; the return shall be signed by the person required to make it and shall contain a written declaration that it is made and subscribed under penalties of perjury.

5. The return made by a fiduciary shall state such facts as the tax commissioner may prescribe.

6. A fiduciary required to make a return under this chapter shall be subject to all of the provisions of the chapter which apply to an individual.

7. The return shall be accompanied by a true copy of the federal income tax return of the taxpayer or by equivalent information on forms furnished and under regulations promulgated by the state tax commissioner if required by the tax commissioner, or a true copy of the federal income tax return of the taxpayer or equivalent information shall be furnished to the tax commissioner by the taxpayer or fiduciary at any time after he has filed the return required by this chapter if so required by the tax commissioner.

§ 2. Amendment.) Section 57-38-32 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-38-32. Duty of Corporations to Make Returns.) Each corporation that receives income from the sources designated in section 57-38-30 and which is required to file an income tax return pursuant to the provisions of the United States Internal Revenue Code of 1954, as amended, shall, unless exempted by the provisions of section 57-38-09, make a return in such form as the tax commissioner may prescribe, stating specifically such facts as the tax commissioner may require for the purpose of making any computation required by this chapter. Any foreign loan and investment company engaged in business in this state, and whose income in this state consists solely of income exempt from taxation under this chapter, need not file an annual report unless specially requested to do so by the tax commissioner, but may file in lieu thereof an affidavit claiming exemption under this chapter. The return shall be signed by the president, vice president, treasurer, assistant treasurer, chief accounting officer or any other officer duly authorized so to act and it and any other declaration, statement or document required to be made shall contain or be verified by a written declaration that it is made under the penalties of perjury.

Approved February 21, 1967.

CHAPTER 454

S. B. No. 347

(Meschke, Berube, Christensen, Larson(17), Rait)

PAYMENT OF INCOME TAX IN QUARTERLY INSTALLMENTS

AN ACT

To amend and reenact section 57-38-36 of the North Dakota Century Code, relating to the payment of income tax in quarterly installments.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **Amendment.)** Section 57-38-36 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-38-36. When Payment of Tax May Be Made in Quarterly Installments.) If the total tax exceeds one hundred dollars it may be paid in quarterly installments, and if paid in such installments, the first installment shall be paid at the time fixed by this chapter for filing the return, the second installment shall be paid on the fifteenth day of the third month, the third installment on the fifteenth day of the sixth month, and the fourth installment on the fifteenth day of the ninth month after the time fixed by law for filing the return. Interest at the rate of six percent per annum shall be charged on all unpaid installment balances during the period from the date fixed by this chapter for filing the return and the date payment of the installment is due. If a taxpayer elects under the provisions of this section to pay the tax in installments, any installment may be paid prior to the date prescribed for its payment. If an installment is not paid in full on or before the date fixed for its payment the whole amount of the unpaid tax shall be paid upon notice and demand from the tax commissioner, and penalty and interest, as provided in sections 57-38-43 and 57-38-45, shall attach, from and after the time of the failure to make such timely payment, to the whole amount of the unpaid tax.

Approved February 27, 1967.

CHAPTER 455

H. B. No. 778
(Aas)

INCOME TAX AUDITS

AN ACT

To amend and reenact section 57-38-38 of the 1965 Supplement to the North Dakota Century Code, relating to notice of federal audit of return, consent for future audit, penalties, and to provide for an effective date.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **Amendment.)** Section 57-38-38 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-38-38. Tax Commissioner to Audit Returns and Assess Tax.) 1. Except as provided in subsections 2, 3, 4, 5, 6 and 7 of this section, the tax commissioner shall proceed to audit the returns of taxpayers and, not later than three years after the due date of the return, or three years after the return was filed, whichever period expires later, assess the tax and, if any additional tax is found due, shall notify the taxpayer in detail as to the reason for the increase;

2. If a taxpayer omits from net income an amount properly includable therein which is in excess of twenty-five percent of the amount of net income stated in the return, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without such assessment, at any time within six years after the due date of the return, or six years after the return was filed, whichever period expires later;

3. If the taxpayer has failed to file a return of income as required by this chapter, the tax may be assessed, or a proceeding in court for the collection of the tax due may be begun without such assessment, at any time within ten years after the due date of the return; provided that no limitation of time shall apply if at the effective date of this amendment a lien has been filed and recorded pursuant to section 57-38-49;

4. Where false or fraudulent information is given in the return, or where the failure to file a return is due to the fraudulent intent or the willful attempt of the taxpayer in any manner to evade the tax, the time limitations in this section shall not apply, and the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without such assessment, at any time;

5. If the amount of net income for any year of any taxpayer as returned to the United States treasury department is changed or corrected by the commissioner of internal revenue or other office of the United States or other competent authority, or where a renegotiation of a contract or subcontract within the United States results in a change in net income, such taxpayer shall report such changed or corrected income, or the results of such renegotiation, within ninety days after the final determination of such change or correction or renegotiation, or as required by the tax commissioner and shall concede the accuracy of such determination or state wherein it is erroneous. Any taxpayer filing an amended return with such department shall also file within ninety days thereafter a copy of such amended return with the tax commissioner. Any taxpayer who consents to an extension of time for the assessment of taxes with the internal revenue service shall within thirty days notify the tax commissioner of the execution of such consent. Failure to report such changed or corrected federal net income or to file a copy of such amended federal return or notify the tax commissioner of the execution of such consent as set forth above and within the time stated shall suspend the running of the period of limitation until such report or copy has been furnished to the tax commissioner, or until six months following the expiration of the federal period of limitation where no change is made or amended return is filed;

6. Where before the expiration of the time prescribed in subsections 1, 2, and 3 for the assessment of tax, the tax commissioner and the taxpayer consent in writing to an extension of time for the assessment of the tax, the tax may be assessed at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon;

7. The provisions of subsections 5 and 6 shall be effective for all income tax returns filed by all individuals, corporations, fiduciaries, estates and trusts for every taxable year beginning after December 31, 1966.

Approved March 1, 1967.

CHAPTER 456

S. B. No. 310

(Rait)

INFORMATION AND PARTNERSHIP RETURNS

AN ACT

To amend and reenact section 57-38-42 of the North Dakota Century Code, relating to information and partnership returns.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Amendment.) Section 57-38-42 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-38-42. Information at the Source.) Information as to income shall be furnished at the source in the manner following:

1. Every individual, partnership, corporation, joint stock company, or association, or insurance company, a resident of, or having a place of business in, this state, in whatever capacity acting, including lessees and mortgagors of real or personal property, fiduciaries, employers, and all officers and employees of the state or of any state institution, or of any political subdivision within the state, having control, receipt, custody, disposal, or payment of interest, other than interest coupons payable to bearer, rent, salaries, wages, premiums, annuities, compensation, remuneration, emoluments, or other fixed or determinable annual or periodical gains, profits, and income, amounting to six hundred dollars or over in salaries or wages, and ten dollars or over of dividends or interest if an information return for such amount is also required to be filed for federal income tax purposes, and six hundred dollars or over in other payments mentioned in this chapter, whether paid or payable during any year to any taxpayer, shall make a complete return thereof to the tax commissioner, under such regulations and in such form and manner and to such extent as may be prescribed by the tax commissioner;
2. Every partnership, having a place of business in this state, shall make a return, stating specifically the items of its gross income and the deductions allowed by this chapter, and shall include in the return the names and addresses of the individuals who would be entitled to

- share in the net income if distributed, and the amount of the distributive share of each individual;
3. All information returns required under subsection 1 of this section shall be made on the basis of a calendar year for payments made or accrued during the calendar year and shall be filed with the tax commissioner on or before April fifteenth of the year following the calendar year for which made. All partnership returns required under subsection 2 of this section shall be made on or before the fifteenth day of the fourth month following the close of the fiscal year of the partnership required to make the return, or if the return is made on the basis of a calendar year, then the return shall be made on or before the fifteenth day of April in the year following the calendar year for which such return is made;
 4. Each information return required under subsection 1 of this section and each partnership return required under subsection 2 of this section shall be signed and shall contain or be verified by a written declaration that it is made under the penalties of perjury.

Approved March 14, 1967.

CHAPTER 457

S. B. No. 262
(Torgerson)

WAIVER OF CIVIL PENALTIES

AN ACT

To amend and reenact subsection 5 of section 57-38-45 of the North Dakota Century Code, relating to the waiver of civil penalties.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Amendment.) Subsection 5 of section 57-38-45 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

5. The tax commissioner may for good cause shown waive all or any part of any civil penalty that attached pursuant to the provisions of this chapter. The provisions of this subsection shall be effective for all returns filed prior to and after December 31, 1966;

Approved March 4, 1967.

CHAPTER 458

H. B. N. 833

(Brown)

NONRESIDENT 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, 57-38-64 and 57-38-65 of the North Dakota Century Code, relating to withholding of income taxes from wages of nonresident 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, except persons employed as domestic or farm workers, 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.

4. "Nonresident" means any person who did not file an individual income tax return with the state tax commissioner for or during 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.

§ 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 nonresident employees shall deduct and withhold from their wages such percentage or percentages, as determined by the tax commissioner, multiplied times 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, as will approximate the income taxes due the state; provided that no employer shall be required to deduct and withhold any amount on the first four hundred dollars of annual wages paid to a nonresident employee unless such employee is employed for a period of thirty days or more within any one year. 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 nonresident 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 willfully 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.

§ 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 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 who has not continuously maintained a domicile in this state for a period of one full year from January first to December thirty-first, shall be required, and any other employer, at the discretion of the tax commissioner may be required 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 their estimated tax for the taxable year, containing such information as the tax commissioner may prescribe by rules and regulations, if their estimated tax due the state 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.) Section 57-38-65 of the North Dakota Century Code is hereby created and enacted to read as follows:

57-38-65. Exemption.) No transportation company shall be required to deduct and withhold with respect to wages paid to nonresident employees for work performed within North Dakota but whose total work during any one payroll period is performed within more than one state; provided, however, that any such employee furnish a certificate to the state tax commissioner that he will be taxable with respect to all such wages earned in North Dakota pursuant to chapter 57-38 of the North Dakota Century Code.

§ 9. 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 June 30, 1967.

Filed March 16, 1967.

Not approved or disapproved by the governor.

CHAPTER 459

H. B. No. 731

(Brown, Johnson(23), Strinden, Kingsbury, Erickson(26).)

(Seibel, Mathiason)

THE 1967 SALES AND USE TAX ACT

AN ACT

To provide for the imposition of a two and one-quarter percent sales tax and use tax, exemptions thereto, manner of collection and administration, appeals, penalties, refunds, and allocation of revenues; and to repeal chapters 57-39 and 57-40 of the North Dakota Century Code, and declaring an emergency.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Legislative Intent.) This Act shall be known as "The 1967 Sales and Use Tax Act" and shall specifically repeal and replace chapters 57-39, 57-40, and 57-40.1 of the North Dakota Century Code and any or all parts of such chapters that are or may be in effect prior to the effective date of this Act.

§ 2. Definitions.) The following words, terms, and phrases, when used in sections 2 through 25 of this Act, 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. "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 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 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; 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; 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, 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. As used in this subsection the word "consumer" shall include any hospital, infirmary, sanatorium, nursing home, home for the aged or similar institution that furnishes services to any patient or occupant.

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 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 admissions 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 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 Act; 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.
6. "Gross receipts" means the total amount of sales of retailers, valued in money, whether received in money or otherwise, provided, however, that discounts for any purposes allowed and taken on sales shall not be included, nor shall the sale price of property returned by customers when the full sale price thereof is refunded either in cash or by credit. Provided further, however, that when tangible personal property is taken in trade or in a series of trades as a credit or part payment of a retail sale taxable under this chapter, if the tangible personal property traded in will be subject to the sales tax imposed by this Act when sold, the credit or trade-in value allowed by the retailer shall not be regarded as gross receipts. Provided further, 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 Act, 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.
9. "Local governmental unit" means incorporated cities, counties, school districts and townships.

§ 3. **Sales Tax Imposed.**) Except as otherwise expressly provided by sections 2 through 25 of this Act, there is hereby imposed 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. 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 Act or a use tax under the provisions of this Act.

Any contract awarded prior to the effective date of this Act, the contractor receiving the award, shall be liable only for the sales or use tax at the rate of tax in effect on the date of contract.

§ 4. **Exemptions.)** There are specifically exempted from the provisions of sections 2 through 25 of this Act and from computation of the amount of tax imposed by them the following:

1. Gross receipts from sales of tangible personal property which this state is prohibited from taxing under the Constitution or laws of the United States or under the Constitution of this state.
2. Gross receipts from the sales, furnishing or service of transportation service.
3. Gross receipts from sales of tangible personal property processed from agricultural products, when such property is sold in exchange for like agricultural products produced by the purchaser and is for the purchaser and his family.
4. Gross receipts from sales of tickets, or admissions to state, county, district, and local fairs, and the gross receipts from educational, religious, or charitable activities, where the entire amount of such receipts is expended for educational, religious, or charitable purposes.
5. Gross receipts from sales of instructional supplies to regularly enrolled students of a private or public school.
6. Gross receipts from all sales otherwise taxable under section 3 of this Act made to the United States or any state thereof, including the state of North Dakota, or any of the subdivisions, departments, agencies, or institutions thereof.
7. Gross receipts from the sale, by any drugstore, of drugs sold under a doctor's prescription.
8. Gross receipts from sales of commercial fertilizers, fungicides, herbicides and insecticides used to promote

the growth of plants and cereals and chemicals used to preserve agricultural crops being stored, and from the sale of seeds, roots, bulbs, and small plants to users or consumers for planting or transplanting for vegetable gardens or agricultural purposes.

9. Gross receipts from sales of oxygen sold to any person who purchases it upon the written order of a doctor for his own use for medical purposes.
10. Gross receipts from the sale of gasoline, cigarettes, snuff, insurance premiums, or any other article or product upon which the state of North Dakota imposes a special tax.
11. Gross receipts from the sale of feed which is fed to poultry or livestock, including breeding stock and wool bearing stock, for the purpose of producing eggs, milk, meat, fibers or other products for human consumption and the gross receipts from the sale of feed purchased for the purpose of being fed to draft or fur bearing animals. The word "feed" as used herein shall be construed to mean and include only salt, grains, hays, tankage, oyster shells, mineral supplements, limestone, molasses, beet pulp, meat and bone scraps, meal and other generally recognized animal feeds. The term "feed" does not include drugs, medicants, disinfectants, wormers, tonics and like items.
12. Gross receipts from all sales otherwise taxable under section 3 of this Act when made to persons who are residents of adjoining states which do not impose or levy a retail sales tax; provided that such persons are in the state of North Dakota for the express purpose of making such purchases, and not as tourists; and provided further that any such person furnish to the North Dakota retailer a certificate signed by him in such form as the tax commissioner may prescribe reciting sufficient facts establishing the exempt status of the sale. Unless such certificate is furnished it shall be presumed, until the contrary is shown, that such person was not in the state of North Dakota for the express purpose of making such purchases; provided further that this exemption shall not apply to any sale to any person if the sales price is ten dollars or less. The deduction for this exemption shall not exceed one and one-half of the amount of the deduction for exempt sales in interstate commerce which the retailer was legally entitled to deduct on his sales tax returns for the calendar year 1964. If no deduction was taken for interstate commerce sales on returns filed for the calendar year 1964 or if no returns were required to

be filed for the calendar year 1964, the deduction for this exemption shall not exceed the average interstate commerce deduction legally allowed by retailers conducting similar business, as determined by the tax commissioner.

13. Gross receipts from the sale of any motor vehicle taxable under the provisions of the motor vehicle excise tax laws of North Dakota.
14. Gross receipts from the sale of tangible personal property when sold through a coin operated vending machine.
15. Gross receipts from sales in which a contractor 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. Any contractor furnishing such certificate must report and remit the tax to the state tax commissioner on purchases taxable under this Act made by him in the same manner as retailers remit such tax under this Act.
16. Gross receipts from the sale of newsprint and ink used in the publication of a newspaper.
17. Gross receipts from the sale of all services furnished by any hospital, infirmary, sanatorium, nursing home, home for the aged or similar institution to any patient or occupant.

§ 5. Credit or Refund for Taxes Paid on Worthless Accounts and Repossessions.) 1. Taxes paid on gross receipts represented by accounts found to be worthless and actually charged off for income tax purposes may be credited upon subsequent payment of the tax herein provided; provided, that if such accounts are hereafter collected by the retailer, a tax shall be paid upon the amount so collected.

2. If a retailer has remitted the sales tax due on the full amount of an installment sales contract rather than on only the installment payments received as provided in subsection 6 of section 2 of this Act, he may deduct as a credit against his sales tax liability on the next return that he is required to file the amount of sales tax he paid on the installment contract payments which were not made by the purchaser of the merchandise sold under such contract; such credit may be

deducted by the retailer regardless of whether or not said retailer has assigned the contract, provided, however, that if the retailer has assigned the contract he must have assigned it subject to an agreement to repurchase the contract in the event of default by the purchaser under the contract or subject to a guarantee that the payments under the contract would be made. In the event such deduction exceeds the amount of sales tax due the state by the retailer in the next regular return, such excess shall be allowed as credit against future sales tax due from the retailer. If in any case the credit, or any part of it, cannot be utilized by the retailer because of a discontinuance of a business or for other valid reasons, the amount thereof may be refunded to the retailer.

§ 6. Credit to Relief Agency and Local Governmental Units.)

A relief agency may apply to the commissioner for refund of the amount of tax imposed under section 3 of this Act and paid upon sales to it of any goods, wares, or merchandise used for free distribution to the poor and needy. Such refunds may be obtained only in the following amount and in the manner and only under all of the following conditions:

1. On forms furnished by the commissioner, and during the time herein provided for the filing of quarterly tax returns by retailers, the relief agency shall report to the commissioner the total amount or amounts, valued in money, expended directly or indirectly for goods, wares, or merchandise used for free distribution to the poor and needy.
2. On these forms the relief agency shall separately list the persons making the sales to it or to its order, together with the dates of the sales, and the total amount so expended by the relief agency.
3. The relief agency must prove to the satisfaction of the commissioner that the person making the sales has included the amount thereof in the computation of the gross receipts of such person and that such person has paid the tax levied by section 3 of this Act, based upon such computation of gross receipts.

If the commissioner is satisfied that the foregoing conditions and requirements have been complied with, he shall refund the amount claimed by the relief agency.

§ 7. Tax To Be Added to Purchase Price and Be a Debt.)

Retailers shall add the tax imposed under section 3 of this Act, 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¢.

§ 8. Unlawful Act.) No retailer shall advertise or hold out or state to the public or to any consumer, directly or indirectly, that the tax or any part thereof imposed by section 3 of this Act shall be assumed or absorbed by the retailer or that it will not be considered as an element in the price to the consumer or, if added, that it or any part thereof will be refunded.

§ 9. Records Required.) Every retailer required to make a report and pay any tax under sections 2 through 25 of this Act, 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.

§ 10. Return of Gross Receipts.) 1. On or before the last day of the month following the close of the first quarterly period as defined in the following section, and on or before the last day of the month following each subsequent quarterly period of three months, the retailer shall make out a return for the preceding quarterly period in such form and manner as may be prescribed by the commissioner, showing the gross receipts of the retailer, the amount of the tax for the period covered by such return, and such further information as the commissioner may require to enable him correctly to compute

and collect the tax herein levied. The commissioner upon request by any retailer and a proper showing of the necessity therefor, may grant unto such retailer an extension of time not to exceed thirty days for making such return. If such extension is granted to any such retailer, the time in which he is required to make payment as provided for in section 11 of this Act shall be extended for the same period;

2. The commissioner, if he deems it necessary or advisable in order to insure the payment of the tax imposed by section 3, or if he deems it practical, may require returns and payment of the tax to be made for annual periods or other than quarterly periods, the provisions of this Act to the contrary notwithstanding.

3. Returns shall be signed by the retailer or his duly authorized agent.

§ 11. Payment of Tax—Bond—Creation of Lien.) 1. The tax levied under section 3 of this Act shall be due and payable in quarterly installments on or before the last day of the month next succeeding each calendar quarterly period, except that when there is a sale of any business by any retailer or when any business is discontinued by a retailer, the tax shall become due immediately prior to the sale or discontinuance of such business and if not paid within fifteen days thereafter it shall become delinquent and subject to the penalties provided in section 16 of this Act.

2. Every retailer, at the time of making the return required hereunder, shall compute and pay to the commissioner the tax due for the preceding period.

3. The commissioner, when in his judgment it is necessary and advisable to do so in order to secure the collection of the tax levied under section 3 of this Act, may require any person subject to such tax to file with him a bond, issued by a surety company authorized to transact business in this state and approved by the insurance commissioner as to solvency and responsibility in such amount as the commissioner may fix, to secure the payment of any tax and penalties due or which may become due from such person. In lieu of such bond, securities approved by the commissioner in such amounts as he may prescribe, may be deposited with him, which securities shall be kept in the custody of the commissioner and may be sold by him at public or private sale, without notice to the depositor thereof, if it becomes necessary so to do in order to recover any tax and penalties due. All moneys deposited as security with the state tax commissioner under the provisions of this subsection shall be paid by the state tax commissioner to the state treasurer and shall be credited by the state treasurer

into a special fund to be known as the "Retail Sales and Use Tax Security Trust Fund." If any tax, penalty or costs imposed by this Act are not paid when due, by the person depositing moneys with the state tax commissioner as security for the payment of tax, penalty or costs imposed by this Act, the state tax commissioner shall certify that information to the director of accounts and purchases who shall transmit the money to the tax commissioner who shall apply the money deposited by the person or so much thereof as is necessary to satisfy the tax and penalties due. The state tax commissioner, when in his judgment it is no longer necessary to require the deposit to be maintained by the person, shall certify that information to the director of accounts and purchases who shall pay the unused money to the person entitled thereto.

4. Remittances on account of tax due under section 3 of this Act 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.

§ 12. Lien of Tax — Collection — Action Authorized.) 1. Whenever any taxpayer liable to pay a tax or penalty imposed refuses or neglects to pay the same, the amount, including any interest, penalty, or addition to such tax, together with the costs that may accrue in addition thereto, shall be a lien in favor of the state of North Dakota upon all property and rights to property, whether real or personal, belonging to said taxpayer, and in the case of property in which a deceased taxpayer held an interest as joint tenant or otherwise with right of survivorship at the time of his death, the lien shall continue as a lien against the property in the hands of the survivor or survivors to the extent of the deceased taxpayer's interest therein, which interest shall be determined by dividing the value of the entire property at the time of the taxpayer's death by the number of joint tenants or persons interested therein.

2. The lien aforesaid shall attach at the time the tax becomes due and payable and shall continue until the liability for such amount is satisfied; for the purposes of this provision the words "due" and "due and payable" shall mean the first instant at which the tax becomes due.

3. In order to preserve the aforesaid lien against subsequent mortgages, purchasers, or judgment creditors, for value and without notice of the lien, on any property situated in a county, the tax commissioner shall file with the register of deeds of the county in which said property is located, a notice of said lien.

4. The register of deeds of each county shall prepare and keep in his office a book known as "Index of Tax Liens," so ruled as to show in appropriate columns all of the following data, under the names of taxpayers, arranged alphabetically:

- a. The name of the taxpayer.
- b. The name "State of North Dakota" as claimant.
- c. Time notice of lien was received.
- d. Date of notice.
- e. Amount of lien then due.
- f. When satisfied.

The register of deeds shall endorse on each notice of lien the day, hour and minute when received and preserve the same, and forthwith shall index said notice in said index book and forthwith shall record said lien in the manner provided for recording real estate mortgages, and the said lien shall be effective from the time of the indexing thereof.

5. The tax commissioner shall be exempt from the payment of the recording and filing fees as otherwise provided by law for the recording and filing of such lien, or for the satisfaction thereof.

6. Upon the payment of a tax as to which the tax commissioner has filed notice with the register of deeds, the tax commissioner forthwith shall file with said register of deeds a satisfaction of said tax and the register of deeds shall enter said satisfaction on the notice on file in his office and indicate said fact on the index aforesaid.

7. The attorney general, upon the request of the tax commissioner, shall bring an action at law or in equity, as the facts may justify, without bond to enforce payment of any taxes and any penalties, or to foreclose the lien therefor in the manner provided for mortgages on real or personal property, and in such action he shall have the assistance of the attorney of the county in which the action is pending.

8. It is expressly provided that the foregoing remedies of the state shall be cumulative and that no action taken by the tax commissioner or attorney general shall be construed to be an election on the part of the state or any of its officers to pursue any remedy hereunder to the exclusion of any other remedy provided by law.

9. The technical, legal requirements outlined in this section relating to tax liens on all real and personal property of the taxpayer to insure payment of the taxes, including penalties, interest and other costs, are self-explanatory.

§ 13. Permits—Application Fee for Reissuance.) 1. No person shall engage in or transact business as a retailer within this state unless a permit or permits shall have been issued to him as hereinafter prescribed. Every person desiring to engage in or conduct business as a retailer within this state shall file with the commissioner an application for a permit or permits. Every application for such a permit shall be made upon a form prescribed by the commissioner and shall set forth the name under which the applicant transacts or intends to transact business, the location of his place or places of business, and such other information as the commissioner may require. The application shall be signed by the owner if a natural person; in the case of an association or partnership, by a member or partner thereof; in the case of a corporation, by an executive officer thereof or some person specifically authorized by the corporation to sign the application, to which shall be attached the written evidence of his authority.

2. Upon determining that each applicant for a sales tax permit is a bona fide retailer 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.

3. Permits issued under the provisions of this section shall be valid and effective until revoked by the commissioner.

4. Whenever the holder of a permit fails to comply with any of the provisions of sections 2 through 25 or any rules or regulations prescribed by the commissioner and adopted under this Act, 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.

5. The commissioner shall charge a fee of five dollars for the issuance of a permit to a retailer whose permit has been previously revoked.

6. All permits in effect at the time this Act 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.

§ 14. Failure to File Return—Incorrect Return.) If a return required by this Act is not filed, or if a return when filed is incorrect or insufficient the commissioner shall determine the amount of tax due from such information as he may be able to obtain, and, if necessary, may estimate the tax on the basis of external indices, such as number of employees of the person concerned, rentals paid by him, his stock on hand, and other factors. The commissioner shall give notice of such determination to the person liable for the tax. Such determination shall fix the tax finally and irrevocably unless the person against whom it is assessed, within fifteen days after the giving of notice of such determination, shall apply to the commissioner for a hearing or unless the commissioner of his own motion shall reduce the same. At such hearing evidence may be offered to support such determination or to prove that it is incorrect. After such hearing the commissioner shall give notice of his decision to the person liable for the tax.

§ 15. Appeals.) 1. An appeal may be taken by the taxpayer to the district court of the county in which he resides, or in which his principal place of business is located, within thirty days after he shall have received notice from the commissioner of his determination as provided for in section 14 of this Act.

2. The appeal shall be taken by a written notice to the commissioner and served as an original notice. When said notice is so served it shall be filed with the return thereon in the office of the clerk of said district court, and docketed as other cases, with the taxpayer as plaintiff and the commissioner as defendant. The plaintiff shall file with such clerk a bond for the use of the defendant, with sureties approved by such clerk, in penalty at least double the amount of tax ap-

pealed from and in no case shall the bond be less than fifty dollars, conditioned that the plaintiff shall perform the orders of the court.

3. The court shall hear the appeal in equity and determine anew all questions submitted to it on appeal from the determination of the commissioner. The court shall render its decree thereon and a certified copy of said decree shall be filed by the clerk of said court with the commissioner who shall then correct the assessment in accordance with said decree. An appeal may be taken by the taxpayer or the commissioner to the supreme court of this state in the same manner that appeals are taken in suits in equity, irrespective of the amount involved.

§ 16. Service of Notice.) 1. Any notice, except notice of appeals, authorized or required under the provisions of this Act may be given by mailing the same to the person for whom it is intended by registered or certified mail addressed to such person at the address given in the last return filed by him pursuant to the provisions of this Act, or if no return has been filed, then such address as may be obtainable. The mailing of such notice shall be presumptive evidence of the receipt of the same by the person to whom addressed. Any period of time which is determined according to the provisions of this Act by giving of notice shall commence to run from the date of registration and posting of such notice.

2. If any tax imposed by this Act 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 Act 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.

§ 17. Penalties, Offenses.) 1. Any person failing to file a return or corrected return or to pay any tax within the time required by this Act shall be subject to a penalty of five percent of the amount of tax due or of five dollars, whichever is greater, 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 commissioner, if satisfied that the delay was excusable, may remit all or any part of the five dollar or five percent penalty, whichever was imposed. Such penalty shall be paid to the commissioner and disposed of in the same manner as other receipts

under this Act. Unpaid penalties may be enforced in the same manner as the tax imposed by section 3 of this Act.

2. Any person who shall sell tangible personal property, tickets or admissions to places of amusement, and athletic events, or steam, gas, water, electricity, and communication service at retail in this state after his license shall have been revoked, or without procuring a license within sixty days after the effective date of this Act, as provided in section 13 of this Act, or who shall violate the provisions of section 8 of this Act, and the officers of any corporation who shall so act, shall be guilty of a misdemeanor, punishment for which shall be a fine of not more than one thousand dollars or imprisonment for not more than one year, or both such fine and imprisonment, in the discretion of the court.

3. Any person required to make, render, sign or verify any return or supplementary return, who makes any false or fraudulent return with intent to defeat or evade the assessment required by law to be made, shall be guilty of a misdemeanor and, for each such offense, shall be fined not to exceed five hundred dollars or shall be imprisoned in the county jail not exceeding one year, or shall be subject to both a fine and imprisonment, in the discretion of the court.

4. The certificate of the commissioner to the effect that a tax has not been paid, that a return has not been filed, or that information has not been supplied pursuant to the provisions of this Act, shall be prima facie evidence thereof.

5. Any person failing to comply with any of the provisions of this Act, or failing to remit within the time herein provided to the state the tax due on any sale or purchase of tangible personal property subject to said sales tax, shall be guilty of a misdemeanor and shall be punished by imprisonment in the county jail not exceeding six months or by a fine of not exceeding five hundred dollars, or by both such fine and imprisonment, in the discretion of the court. This criminal liability shall be cumulative and in addition to the civil liability for penalties hereinbefore provided.

§ 18. Tax Commissioner to Administer Act.) The tax commissioner is hereby charged with the administration of this Act and the taxes imposed thereby. Such commissioner may prescribe all rules and regulations not inconsistent with the provisions of this Act, necessary and advisable for its detailed administration and to effectuate the purposes, including the right to provide for the issuance and sale by the state of coupons covering the amount of tax or taxes to be paid under this Act, if such method is deemed advisable by said commissioner.

§ 19. Tax, Penalties and Other Charges Paid to Commissioner — Disposition.) All fees, taxes, penalties and other charges imposed and collected under this Act shall be paid to the commissioner in the form of a remittance payable to the commissioner who shall transmit each payment monthly to the state treasury to be deposited in the state treasury to the credit of the general fund.

§ 20. General Powers.) 1. The commissioner, for the purpose of ascertaining the correctness of any return or for the purpose of making an estimate of the taxable income and receipts of any taxpayer, shall have power to examine or cause to be examined by any agent or representative designated by him, books, papers, records, or memoranda; to require by subpoena the attendance and testimony of witnesses; to issue and sign subpoenas; to administer oaths; to examine witnesses and receive evidence; to compel witnesses to produce for examination books, papers, records, and documents relating to any matter which he shall have the authority to investigate or determine.

2. Where the commissioner finds the taxpayer has made a fraudulent return, the costs of said hearing shall be taxed to the taxpayer. In all other cases the cost shall be paid by the state.

3. The fees and mileage to be paid witnesses and taxed as costs shall be the same as prescribed by law in proceedings in the district court of this state in civil cases. All costs shall be taxed in the manner provided by law in proceedings in civil cases. Where the costs are taxed to the taxpayer, they shall be added to the taxes assessed against said taxpayer and shall be collected in the same manner. Costs taxed to the state shall be certified by the commissioner to the state treasurer, who shall issue warrants for the amount of said costs.

4. In cases of disobedience to a subpoena the commissioner may invoke the aid of any court of competent jurisdiction in requiring the attendance and testimony of witnesses and production of records, books, papers, and documents, and such court may issue an order requiring the person to appear before the commissioner and give evidence or produce records, books, papers, and documents, as the case may be, and any failure to obey such order of court may be punished by the court as contempt thereof.

5. Testimony on hearings before the commissioner may be taken by a deposition as in civil cases, and any person may be compelled to appear and depose in the same manner as witnesses may be compelled to appear and testify as hereinbefore provided.

§ 21. Commissioner May Appoint Agents and Employees— Compensation — Bond.) 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 to least three years' experience, or the education equivalent thereof, in the auditing and checking of books of account.

2. All such agents and employees shall be allowed such reasonable and other necessary traveling expenses as may be incurred in the performance of their duties not to exceed, however, such amounts as are now or may hereafter be fixed by law.

3. The commissioner may require such of the officers, agents, and employees as he may designate to give bond for the faithful performance of the duties in such sum and such sureties as he may determine and the state shall pay the premiums on such bonds.

4. The commissioner may utilize the office of the treasurer of the various counties in order to administer this Act and effectuate its purposes and may appoint the treasurers of the various counties his agents to collect any or all of the taxes imposed by this Act. No additional compensation shall be paid to said treasurer by reason thereof.

§ 22. Information Deemed Confidential—Penalty.) It shall be unlawful for the commissioner, or any person having an administrative duty under this Act, to divulge or to make known in any manner whatever, the business affairs, operations, or information obtained by an investigation of records and equipment of any person or corporation visited or examined in the discharge of official duty, or the amount or sources of income, profits, losses, expenditures or any particulars thereof, set forth or disclosed in any return, or to permit any return or copy thereof or any book containing any abstract of particulars thereof to be seen or examined by any person except as provided by law. The commissioner may authorize examination of such returns by other state officers, or, if a reciprocal arrangement exists, by tax officers of another state, or the federal government. Any person violating the provisions of this section shall be guilty of a misdemeanor and punishable by a fine of not to exceed one thousand dollars.

§ 23. Correction of Errors.) If it shall appear that, as a result of a mistake, an amount of tax, penalty, or interest has been paid which was not due under the provisions of this Act, then such amount shall be credited against any tax due, or to

become due, under this Act from the person who made the erroneous payment, or such amount shall be refunded to such person by the commissioner.

§ 24. Payment of Refund.) Wherever by any provisions of this Act a refund is authorized, the commissioner shall certify the amount of the refund, the reason therefor and the name of the payee to the department of accounts and purchases, who shall thereupon draw a warrant on the general fund in the amount specified payable to the named payee.

§ 25. Allocation of Revenue.) All moneys collected and received under sections 2 through 25 of this Act shall be paid into the state treasury and shall be credited by the state treasurer to the general fund. Moneys deposited with the tax commissioner as security for the payment of tax, penalties or costs due shall be deposited and accounted for as provided in subsection 3 of section 11.

§ 26. Definitions.) In sections 26 through 41, unless the context and subject matter otherwise require:

1. "Persons," "sale," "retail sale," "business," "gross receipts," "relief agency," "commissioner," "local government unit," each shall have the meaning given to it in section 2 of this Act.
2. "Use" shall mean the exercise by any person of any right or power over tangible personal property incident to the ownership or possession of that property, except that it shall not include processing, or the sale of that property in the regular course of business. "Use" shall also mean the severing of sand or gravel from the soil of this state.
3. Property used in "processing," as that term is used in subsection 2, shall mean 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 purchase 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 or use tax laws of the state of North Dakota shall be considered as a purchase of tangible personal property for a purpose other than for processing.
4. "Purchase" means any transfer of title or possession, exchange, or barter, conditional or otherwise, in any manner or by any means whatsoever, for a consideration.

“Purchase” shall also mean the severing of sand or gravel from the soil of this state.

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 and trade-ins allowed and taken on sales shall not be included. “Purchase price” shall also mean, in those instances where sand or gravel is not sold at retail as tangible personal property by the person severing the sand or gravel, the fair market value of the sand or gravel severed. If the sand or gravel is not sold at retail by the person severing the sand or gravel, it shall be presumed until the contrary is shown by the tax commissioner or by the person severing the sand or gravel that the fair market value is eight cents per ton of two thousand pounds. Where records are not kept as to the tonnage of sand or gravel severed from the soil it shall be presumed for the purpose of this Act that one cubic yard of sand or gravel shall be equal to one and one-half tons of sand or gravel.
6. “Tangible personal property” means:
 - a. Tangible goods, wares, and merchandise, and gas, electricity, and water, when furnished or delivered to consumers or users within this state;
 - b. The leasing or renting of tangible personal property, the sale, storage, use, or consumption of which has not been previously subjected to a retail sales or use tax in this state;
 - c. The purchase of subscriptions to magazines or other periodicals 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 subscriptions; 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.
 - d. The severance of sand or gravel from the soil.
7. “Retailer” includes every person engaged in the business of selling tangible personal property for use within the meaning of sections 26 through 41 of this Act, but, when in the opinion of the commissioner, it is necessary for the efficient administration of sections 26 through 41 to

regard any salesman, representative, trucker, peddler, or canvasser as the agent of the dealer, distributor, supervisor, employer, or other person under whom he operates or from whom he obtains the tangible personal property sold by him, whether he is making sales in his own behalf or in behalf of such dealer, distributor, supervisor, employer, or other person, the commissioner may regard him as such agent, and may regard the dealer, distributor, supervisor, employer, or other person as a retailer for the purposes of sections 26 through 41.

8. "Retailer maintaining a place of business in this state", or any like term, shall mean any retailer having or maintaining within this state, directly or by a subsidiary, an office, distribution house, sales house, warehouse, or other place of business, or any agent operating within this state under the authority of the retailer or its subsidiary, whether such place of business or agent is located in the state permanently or temporarily, or whether or not such retailer or subsidiary is authorized to do business within this state.
9. "Purchased at retail" shall include, but shall not be limited to:
 - a. The completion of the fabricating, compounding, or manufacturing of tangible personal property by a person for storage, use, or consumption by that person;
 - b. The leasing or renting of tangible personal property, the sale, storage, use, or consumption of which has not been previously subjected to a retail sales or use tax in this state;
 - c. The purchase of subscriptions to magazines or other periodicals 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 subscriptions; 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.
 - d. The severance of sand or gravel from the soil.

§ 27. Sales for Resale—Exempt When.) Whenever a retailer accepts in good faith a resale certificate at the time of making a sale, which sale would otherwise be subject to the sales tax,

and such resale certificate contains the sales tax permit number of the purchaser, such retailer making the sale shall be relieved from submitting the sales tax upon the purchase price of the merchandise sold. Whenever a person submits a false resale certificate to a retailer, the person submitting the certificate shall be personally liable for the tax on the sale.

§ 28. 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 36 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. Any contract awarded prior to the effective date of this Act, the contractor receiving the award, shall be liable only for the use tax at the rate of tax in effect on the date of contract.

§ 29. Exemptions.) Sections 26 through 41 hereby are declared to be an independent and separate tax law but complementary to the retail sales tax laws of this state provided for by sections 2 through 25 and shall not apply to:

1. Any tangible personal property or taxable service upon the sale of which the retail sales tax imposed by section 3 has been collected by a retailer holding the permit prescribed by section 13.
2. Tangible personal property brought into this state by a nonresident thereof for his own storage, use, or consumption while temporarily within this state, except that such property shall not be exempt if brought into this state for storage, use, or consumption in the conduct of a trade, occupation, business, or profession.
3. Any motor vehicle, mobile home, trailer or semitrailer which is registered for a license under the motor vehicle laws of this state.
4. Tangible personal property upon which the state now imposes and collects a special tax, whether in the form of license tax, stamp tax, or otherwise.
5. Railway cars and locomotives used in interstate commerce, and tangible personal property which becomes a component part thereof.
6. Newsprint and ink actually used in the publication of a newspaper.

§ 30. Evidence of Use.) For the purpose of the proper administration of sections 26 through 41, and to prevent evasion of the tax, evidence that tangible personal property was sold by any person for delivery in this state shall be prima facie evidence that such tangible personal property was sold for use in this state.

§ 31. Payment of Tax.) The tax imposed by section 28 shall be paid in the following manner:

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 32, shall be collected by the retailer and remitted to the commissioner as provided by section 32, 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. Any contract awarded prior to the effective date of this Act, the contractor receiving the award, shall be liable only for the use tax at the rate of tax in effect on the date of the contract.
2. The tax, when not paid in conformity with subsection 1 of this section, shall be paid to the tax commissioner directly by any person storing, using, or consuming such property within this state, pursuant to the provisions of section 32.

§ 32. Collection of Use Tax.) The tax imposed by section 28 shall be collected in the following manner:

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 29, before making any sales shall obtain a permit from the commissioner to collect the tax imposed by section 29, 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 subsec-

tion 1 of section 31 collect the tax imposed by section 28 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 28 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 31, 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.
3. The tax required to be collected, and any tax collected, by any retailer under subsections 1 and 2 of this section shall constitute a debt owed by the retailer to this state.
4. Each retailer required or authorized, pursuant to this section, to collect such tax shall pay the tax in quarterly installments on or before the last day of the month, next succeeding each quarterly period ending March thirty-first, June thirtieth, September thirtieth, and December thirty-first of each year. Except that when there is a sale of any business by any retailer required or authorized, pursuant to this section, to collect such tax or when any business is discontinued by such retailer, the tax shall become due immediately prior to the sale or discontinuance of such business and if not paid within fifteen days thereafter it shall become delinquent and subject to the penalties provided in section 40. Every retailer, at the time of making the return required by this chapter, shall compute and pay to the commissioner the tax due for the preceding period.

5. The retailer, on or before the last day of the month following the close of the first quarterly period as defined in subsection 4 of this section, and on or before the last day of the month following each subsequent quarterly period of three months, shall make out a return for the preceding quarterly period in such form and manner as may be prescribed by the commissioner, showing the gross receipts of the retailer, the amount of the tax for the period covered by such return, and such further information as the tax commissioner may require to enable him correctly to compute and collect such tax, but the tax commissioner, upon receipt of a proper showing by any retailer of the necessity therefore, may grant unto such retailer an extension of time not to exceed thirty days for making such return. If such extension is granted to any retailer, the time in which he is required to make payment shall be extended for the same period. The commissioner, if he deems it necessary or advisable in order to ensure the payment of the tax, or if he deems it practical, may require returns and payment of the tax to be made for annual periods or other than quarterly periods, the provisions of this Act to the contrary notwithstanding. A return shall be signed by the taxpayer or his duly authorized agent and must be verified by oath.
6. Any person who uses any property upon which the said tax has not been paid, either to the retailer or directly to the tax commissioner, shall be liable therefor, and, on or before the last day of the month next succeeding each quarterly period, shall pay the tax upon all such property used by him during the preceding quarterly period, in such manner and accompanied by such returns as the commissioner shall prescribe.
7. The commissioner, when in his judgment it is necessary and advisable to do so in order to secure the collection of such tax, may require any person subject to the tax to file with him a bond, issued by a surety company authorized to transact business in this state and approved by the insurance commissioner as to solvency and responsibility, in such amount as the commissioner may fix, to secure the payment of any tax or penalties due or which may become due from such person. In lieu of such bond, securities approved by the tax commissioner, in an amount which he may prescribe, may be deposited with him, and such securities shall be kept in the custody of the commissioner, and may be sold by him at public or private sale, without notice to the

depositor thereof, if it becomes necessary so to do in order to recover any tax or penalties due. Upon such sale, the surplus, if any remains above the amounts due, shall be returned to the person who deposited the securities.

8. The commissioner may adopt and promulgate rules and regulations for adding such tax, or the average equivalent thereof, by providing different methods applying uniformly to retailers within the same general classification for the purpose of enabling such retailers to add and collect, as far as practicable, the amount of such tax.

§ 33. Unlawful Advertising—Penalty.) It shall be unlawful for any retailer to advertise or hold out or state to the public or to any purchaser, consumer, or user, directly or indirectly, that the tax or any part thereof imposed by section 28 will be assumed or absorbed by the retailer, or that it will not be added to the selling price of the property sold, or if added that it or any part thereof will be refunded. Any person violating any provision of this section within this state is guilty of a misdemeanor and shall be punished by a fine of not more than one hundred dollars for each offense or by imprisonment for not to exceed thirty days, or by both such fine and imprisonment.

§ 34. Records Required.) Each retailer required or authorized to collect the tax imposed by section 28, and each person using in this state tangible personal property purchased on or after July 1, 1967, 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.

§ 35. Revocation of Permit and Authority To Do Business.) If any retailer maintaining a place of business in this state, or authorized to collect the tax imposed by section 28, fails to comply with any of the provisions of sections 26 through 41, or with any order or regulation of the tax commissioner, the

commissioner, by order, may revoke the permit, if any was issued to such retailer, or if the retailer is a corporation authorized to do business in this state, the commissioner may certify to the secretary of state a copy of an order finding that such retailer has failed to comply with certain specified provisions, orders, rules, or regulations. The secretary of state, upon receipt of such certified copy, may revoke the certificate authorizing such corporation to do business in this state, and shall issue a new certificate only when the corporation shall have obtained from the commissioner an order finding that the corporation has complied with its obligations under sections 26 through 41. Any order shall be made under this section only after a retailer has had an opportunity, upon ten days' notice of the time, place, and purpose of a hearing, to show cause why such order should not be made. The tax commissioner may issue a new permit after revocation.

§ 36. Articles Taxed in Other States or Political Subdivisions of Other States.) If any article or tangible personal property has been subjected already to a tax by any other state or political subdivision thereof in respect to its sale or use in an amount less than the tax imposed by section 28, the provisions of sections 26 through 41 shall apply, but at a rate measured by the difference only between the rate fixed in section 28 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 or political subdivision thereof 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.

§ 37. Unlawful Sale or Soliciting — Penalty.) No agent, canvasser, or employee of any retailer, not authorized by permit from the tax commissioner of this state, shall collect the tax as prescribed by sections 26 through 41, nor sell, solicit orders for, nor deliver, any tangible personal property in this state. Any such agent, canvasser, or employee violating the provisions of sections 26 through 41 is guilty of a misdemeanor and shall be punished by a fine of not more than one hundred dollars for each offense, or by imprisonment for not more than thirty days, or by both such fine and imprisonment.

§ 38. Provisions of Sales Tax Law Applicable.) The provisions of sections 2 through 25, pertaining to the administration of the retail sales tax, including provisions for refund or credit provided therein, not in conflict with the provisions of sections 26 through 41, shall govern the administration of the tax levied in sections 26 through 41.

§ 39. Contractor's Performance Bonds for Payment of Use Tax.) For the purposes of this section the term "surety" shall mean a bond or undertaking executed by a surety company authorized to do business in the state of North Dakota; "surety company" means any person, firm, or corporation executing such surety; "contractor" includes any individual, firm, copartnership, association, corporation, or other group or combination thereof acting as a unit, and the plural as well as the singular number; and "subcontractor" includes any individual, firm, copartnership, association, corporation, or other group or combination thereof acting as a unit, and the plural as well as the singular number, who undertakes to perform all or any part of work covered by the original contract entered into by the contractor, including the furnishing of any supplies, materials, equipment, or any other tangible personal property.

Whenever any contractor or subcontractor enters into any contract for the erection of buildings or the alteration, improvement or repair of real property in this state and the contractor or subcontractor furnishes surety for the faithful performance of such contract, there is hereby imposed the additional obligation upon the surety company to the state of North Dakota that said contractor or subcontractor shall promptly pay all use taxes which may accrue to the state of North Dakota under the provisions of this Act. In the case of a contractor and his surety company this additional obligation shall include liability to pay to the tax commissioner on purchases made by either the contractor or the subcontractor all such use taxes which have not been paid to a retailer authorized or required to collect such taxes; and the contractor or his surety company is hereby authorized to recover from the subcontractor the amount of any use taxes accruing with respect to purchases made by the subcontractor which the contractor or the surety company may be required to pay to the tax commissioner, or to withhold from the amount due the subcontractor under the subcontract an amount equal to any use taxes accruing with respect to purchases of the subcontractor which have not been paid by the subcontractor to the tax commissioner or to a retailer authorized or required to collect such taxes. Such liability on the part of the surety company shall be limited to three percent of the amount of the contract price.

The surety company within sixty days after executing such surety shall send written notice of the same to the state tax commissioner, which notice shall give the names and addresses of the parties contracting with respect to the real property and the place where the contract is to be performed. After the completion of the contract and the acceptance of

the improvement by the owner of the real property improved, the surety company shall give written notice of such completion and acceptance to the state tax commissioner.

Six months after the completion of the contract and the acceptance of the improvement by the owner thereof, the additional obligation imposed upon said surety company shall cease unless written notice, within such period of time, of unpaid use taxes, is given to the surety company by the state tax commissioner.

This section shall not be construed to modify or repeal in any way any of the provisions of sections 48-01-05 and 48-01-06 of the North Dakota Century Code.

§ 40. Penalties—Offenses.) 1. Any person failing to file a return or corrected return or to pay any tax imposed pursuant to section 28, within the time required by this Act, shall be subject to a penalty of five percent of the amount of tax due or of five dollars, whichever is greater, 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 commissioner, if satisfied that the delay was excusable, may remit all or any part of the five dollar or five percent penalty, whichever was imposed. Such penalty shall be paid to the commissioner and disposed of in the same manner as the tax with respect to which it is attached. Unpaid penalties may be enforced in the same manner as is the tax.

2. Any person required to make, render, sign or verify any return or supplementary return, who makes any false or fraudulent return with intent to defeat or evade the assessment required by law to be made, shall be guilty of a misdemeanor and, for each such offense, shall be fined not to exceed five hundred dollars or shall be imprisoned in the county jail not exceeding one year, or shall be subject to both a fine and imprisonment, in the discretion of the court.

3. The certificate of the commissioner to the effect that a tax has not been paid, that a return has not been filed, or that information has not been supplied pursuant to the provisions of sections 26 through 41, shall be prima facie evidence thereof.

4. Any person failing to comply with any of the provisions of sections 26 through 41, or failing to remit within the time herein provided to the state the tax due on any sale or purchase of tangible personal property subject to the tax imposed under the provisions of section 28, shall be guilty of a misdemeanor and shall be punished by imprisonment in the

county jail not exceeding six months or by a fine of not exceeding five hundred dollars, or by both such fine and imprisonment, in the discretion of the court. This criminal liability shall be cumulative and in addition to the civil liability for penalties hereinbefore provided.

§ 41. Lien of Tax — Collection — Action Authorized.) 1. Whenever any person liable for payment to the tax commissioner of the tax imposed by section 28 or for any penalties in respect thereto refuses or neglects to pay the same the amount, including any interest, penalty, or addition to such tax, together with the costs that may accrue in addition thereto, shall be a lien in favor of the state of North Dakota upon all property and rights to property, whether real or personal, belonging to said taxpayer, and in the case of property in which a deceased taxpayer held an interest as joint tenant or otherwise with right of survivorship at the time of his death, the lien shall continue as a lien against the property in the hands of the survivor or survivors to the extent of the deceased taxpayer's interest therein, which interest shall be determined by dividing the value of the entire property at the time of the taxpayer's death by the number of joint tenants or persons interested therein.

2. The lien aforesaid shall attach at the time the tax first becomes payable, as provided by section 32, and shall continue until the liability for such amount is satisfied.

3. In order to preserve the aforesaid lien against subsequent mortgages, purchasers, or judgment creditors, for value and without notice of the lien, on any property situated in a county, the tax commissioner shall file with the register of deeds of the county in which said property is located, a notice of said lien.

4. The register of deeds of each county shall prepare and keep in his office a book known as "Index of Tax Liens", so ruled as to show in appropriate columns all of the following data, under the names of taxpayers, arranged alphabetically:

- a. The name of the taxpayer.
- b. The name "State of North Dakota" as claimant.
- c. Time notice of lien was received.
- d. Date of notice.
- e. Amount of lien then due.
- f. When satisfied.

The register of deeds shall endorse on each notice of lien the day, hour and minute when received and preserve the same,

and forthwith shall index said notice in said index book and forthwith shall record said lien in the manner provided for recording real estate mortgages, and the said lien shall be effective from the time of the indexing thereof.

5. The tax commissioner shall be exempt from the payment of the recording and filing fees as otherwise provided by law for the recording and filing of such lien, or for the satisfaction thereof.

6. Upon the payment of a tax as to which the tax commissioner has filed notice with the register of deeds, the tax commissioner forthwith shall file with said register of deeds a satisfaction of said tax and the register of deeds shall enter said satisfaction on the notice on file in his office and indicate said fact on the index aforesaid.

7. The attorney general, upon the request of the tax commissioner, shall bring an action at law or in equity, as the facts may justify, without bond to enforce payment of any taxes and any penalties, or to foreclose the lien therefor in the manner provided for mortgages on real or personal property, and in such action he shall have the assistance of the state's attorney of the county in which the action is pending.

8. It is expressly provided that the foregoing remedies of the state shall be cumulative and that no action taken by the tax commissioner or attorney general shall be construed to be an election on the part of the state or any of its officers to pursue any remedy hereunder to the exclusion of any other remedy provided by law.

9. The technical, legal requirements outlined in this section relating to tax liens on all real and personal property of the taxpayer to ensure payment of the taxes, including penalties, interest and other costs, are self-explanatory.

10. Remittances on account of tax due under sections 26 through 41 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.

§ 42. Repeal.) Chapters 57-39 and 57-40 of the 1965 Supplement to the North Dakota Century Code and the permanent volume of the North Dakota Century Code are hereby repealed and shall be replaced in the North Dakota Century Code by the provisions of this Act.

§ 43. Effective Date of Certain Sections.) The provisions of sections 1 through 42 of this Act shall become effective April 1, 1967.

§ 44. **Emergency Clause.**) This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved February 27, 1967.

CHAPTER 460

H. B. No. 943

(Committee on Delayed Bills)

AMENDMENT OF 1967 SALES AND USE TAX ACTS

AN ACT

To amend and reenact section 3, subsections 5 and 8 of section 4, sections 9 and 28, subsection 3 of section 29, and section 34 of House Bill Number 731 as approved by the Fortieth Legislative Assembly, and to amend and reenact sections 1 and 3 of Senate Bill Number 403 as approved by the Fortieth Legislative Assembly, relating to the imposition sections of the sales and use tax laws, exemptions from the sales and use taxes, records and resale certificates of retailers, to repeal section 27 of House Bill Number 731 as approved by the Fortieth Legislative Assembly, providing an effective date, and declaring an emergency.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **Amendment.**) Section 3 of House Bill Number 731 as approved by the Fortieth Legislative Assembly is hereby amended and reenacted to read as follows:

§ 3. **Sales Tax Imposed.**) Except as otherwise expressly provided by sections 2 through 25 of this Act, there is hereby imposed 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. 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 Act or a use tax under the provisions of this Act.

In the case of a contract awarded for the construction of highways, roads, streets, bridges, and buildings prior to the effective date of this Act, the contractor receiving the award shall be liable only for the sales or use tax at the rate of tax in effect on the date of contract.

§ 2. Amendment.) Subsections 5 and 8 of section 4 of House Bill Number 731 as approved by the Fortieth Legislative Assembly are hereby amended and reenacted to read as follows:

5. Gross receipts from sales of text books to regularly enrolled students of a private or public school.
8. Gross receipts from sales of commercial fertilizers, fungicides, herbicides and insecticides to agricultural or commercial vegetable producers and chemicals used to preserve agricultural crops being stored, and from the sale of seeds, roots, bulbs, and small plants to commercial users or consumers for planting or transplanting for commercial vegetable gardens or agricultural purposes.

§ 3. Amendment.) Section 9 of House Bill Number 731 as approved by the Fortieth Legislative Assembly is hereby amended and reenacted to read as follows:

§ 9. Records Required—Sales for Resale Exempt.) 1. Every retailer required to make a report and pay any tax under sections 2 through 25 of this Act, 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. Whenever a retailer accepts in good faith a resale certificate at the time of making a sale, which sale would otherwise be subject to the sales tax, and such resale certificate contains the sales tax permit number of the purchaser, such retailer

making the sale shall be relieved from submitting the sales tax upon the purchase price of the merchandise sold. Whenever a person submits a false resale certificate to a retailer the person submitting the certificate shall be personally liable for the tax on the sale.

§ 4. Amendment.) Section 28 of House Bill Number 731 as approved by the Fortieth Legislative Assembly is hereby amended and reenacted to read as follows:

§ 28. 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 36 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. In the case of a contract awarded for the construction of highways, roads, streets, bridges, and buildings prior to the effective date of this Act, the contractor receiving the award shall be liable only for the use tax at the rate of tax in effect on the date of contract.

§ 5. Amendment.) Subsection 3 of section 29 of House Bill Number 731 as approved by the Fortieth Legislative Assembly is hereby amended and reenacted to read as follows:

3. The sale of any motor vehicle taxable under the provisions of the motor vehicle excise tax laws of North Dakota.

§ 6. Amendment.) Section 34 of House Bill Number 731 as approved by the Fortieth Legislative Assembly is hereby amended and reenacted to read as follows:

§ 34. Records Required.) Each retailer required or authorized to collect the tax imposed by section 28, and each person using in this state tangible personal property purchased 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, paper, 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.

§ 7. Amendment.) Section 1 of Senate Bill Number 403 as approved by the Fortieth Legislative Assembly is hereby amended and reenacted to read as follows:

§ 1. Separate and Additional Tax on Retail Sales.) There is hereby imposed a tax of three-quarters of one percent, which tax shall be in addition to any other provided for by law, 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 communications 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. 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 Act or a use tax under the provisions of this Act.

In the case of any contract awarded for the construction of highways, roads, streets, bridges, and buildings prior to the effective date of this Act, the contractor receiving the award shall be liable only for the sales tax at the rate of tax in effect on the date of contract.

All definitions of terms, provisions for collection and delinquency, exemptions, assessments, penalties, refunds, notices and appeals, and all other provisions contained and provided for in sections 1 through 25 of House Bill No. 731 of the Fortieth Legislative Assembly, and any other provisions of law

now in effect or which may become effective relating to the retail sales tax, shall apply and are hereby made applicable to the tax imposed under the provisions of this section.

§ 8. Amendment.) Section 3 of Senate Bill Number 403 as approved by the Fortieth Legislative Assembly is hereby amended and reenacted to read as follows:

§ 3. Separate and Additional Use Tax.) 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 three-quarters of one percent of the purchase price of such property, which tax shall be in addition to any other tax provided for by law. 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 three-quarters of one percent of the fair market value of such property at the time it was brought into this state. In the case of any contract awarded for the construction of highways, roads, streets, bridges, and buildings prior to the effective date of this Act, the contractor receiving the award, shall be liable only for the use tax at the rate of tax in effect on the date of the contract. All definitions of terms, provisions for collection and delinquency, exemptions, assessments, penalties, refunds, notices and appeals, and all other provisions contained and provided for in sections 26 through 41 of House Bill Number 731 of the Fortieth Legislative Assembly, and any other provisions of law now in effect or which may become effective relating to the use tax, shall apply and are hereby made applicable to the tax imposed under the provisions of this section.

§ 9. Repeal.) Section 27 of House Bill Number 731 as approved by the Fortieth Legislative Assembly is hereby repealed.

§ 10. Effective Date.) The provisions of this Act shall become effective April 1, 1967.

§ 11. Emergency.) This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 14, 1967.

CHAPTER 461

S. B. No. 403
(Committee on Delayed Bills)

ADDITIONAL SALES AND USE TAX

AN ACT

To provide an additional sales and use tax of three-quarters of one percent, providing a method of collection and administration, providing a penalty, and providing effective dates and declaring an emergency.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Separate and Additional Tax on Retail Sales.) There is hereby imposed a tax of three-quarters of one percent, which tax shall be in addition to any other tax provided for by law, 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. 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 Act or a use tax under the provisions of this Act.

Upon any contract awarded prior to the effective date of this Act, the contractor receiving the award, shall be liable only for the sales tax at the rate of tax in effect on the date of contract.

All definitions of terms, provisions for collection and delinquency, exemptions, assessments, penalties, refunds, notices and appeals, and all other provisions contained and provided for in sections 1 through 25 of House Bill No. 731 of the Fortieth Legislative Assembly, and any other provisions of law now in effect or which may become effective relating to the retail sales tax, shall apply and are hereby made applicable to the tax imposed under the provisions of this section.

§ 2. Tax To Be Added to Purchase Price and Be a Debt.)

Retailers shall add the tax imposed under section 1 of this Act, 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, and when such tax is applied and collected at the same time, in the same manner and in addition to but as a part of the sales tax imposed by House Bill No. 731 of the Fortieth Legislative Assembly, retailers shall adopt the following bracket system for the application of the tax, which system shall supersede the bracket system provided for in House Bill No. 731 of the Fortieth Legislative Assembly:

\$0.01 to \$0.14.....	no tax
.15 to .33.....	1¢ tax
.34 to .67.....	2¢ tax
.68 to 1.00.....	3¢ tax

Each additional \$1.00—3¢ additional tax or each additional 33¢ or fraction thereof over \$1.00—1¢ additional tax.

§ 3. Separate and Additional Use Tax.) 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 three-quarters of one percent of the purchase price of such property, which tax shall be in addition to any other tax provided for by law. 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 three-quarters of one percent of the fair market value of such property at the time it was brought into this state. Upon any contract awarded prior to the effective date of this Act, the contractor receiving the award, shall be liable only for the use tax at the rate of tax in effect on the date of the contract. All definitions of terms, provisions for collection and delin-

quency, exemptions, assessments, penalties, refunds, notices and appeals, and all other provisions contained and provided for in sections 26 through 41 of House Bill No. 731 of the Fortieth Legislative Assembly, and any other provisions of law now in effect or which may become effective relating to the use tax, shall apply and are hereby made applicable to the tax imposed under the provisions of this section.

§ 4. Effective Date.) The provisions of sections 1 through 3 of this Act shall become effective April 1, 1967.

§ 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.

Filed March 13, 1967.

Note: Chapter 461 was vetoed by the governor on February 27, 1967. This veto was subsequently overridden by the senate and the house of representatives on March 1, 1967.

CHAPTER 462

S. B. No. 230
(Redlin, Trenbeath, Melland)

MOTOR VEHICLE EXCISE TAX

AN ACT

To create and enact a new chapter to the North Dakota Century Code, imposing a two and one-quarter percent motor vehicle excise tax, exemptions thereto, manner of collection, penalties, allocation of revenue and to repeal chapters 57-39.1 and 57-40.1 of the North Dakota Century Code, and declaring an effective date and an emergency.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Definitions.) The following words, terms and phrases, when used in this Act, shall 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. "Motor vehicle registrar" shall mean the registrar of motor vehicles who is the officer in charge of the motor

vehicle department of this state and who shall act as the agent of the state tax commissioner in administering the provisions of this chapter.

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. "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, and every trailer and semitrailer for which a certificate of title is required to be obtained pursuant to the provisions of chapter 39-05, but not including house trailers, or mobile homes.
5. "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".
6. "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".
7. "Use" shall mean the exercise by any person of any right or power over a motor vehicle 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.
8. "Sale", "sells", "selling", "purchase", "purchased" or "acquired" shall include any transfer of title or ownership of a motor vehicle by way of gift, exchange or barter, or by any other manner or by any other means whatsoever for or without consideration except that these terms shall not include acquisition by inheritance from, or by bequest of, a decedent who owned it, nor shall these terms include the transfer of a motor vehicle which was previously titled or licensed in the names of two or more joint tenants and subsequently transferred

without monetary consideration to one or more of the joint tenants, nor shall these terms include the transfer of a motor vehicle by way of gift between a husband and wife or parent and child.

9. "Purchase price" means the total amount paid for the motor vehicle whether received in money or otherwise, provided, however, that when a motor vehicle is taken in trade as a credit or as part payment on a motor vehicle taxable under this Act, the credit or trade-in value allowed by the person selling the motor vehicle shall be deducted from the total selling price to establish the purchase price of the vehicle being sold and the trade-in allowance allowed by the seller shall constitute the purchase price of the motor vehicle accepted as a trade-in. "Purchase price" is those instances where the motor vehicle is acquired by gift or by any other transfer for a nominal or no monetary consideration, shall also include the average value of similar motor vehicles, established by standards and guides as determined by the motor vehicle registrar. "Purchase price" in those instances where a motor vehicle is manufactured by a person who registers it under the laws of this state, shall mean the manufactured cost of such motor vehicle 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, manufactured costs shall mean the reasonable value of the completed motor vehicle. The term "purchase price" shall not include the transfer of a motor vehicle by way of gift between a husband and wife or parent and child and shall not include the transfer of a motor vehicle between a lessee and lessor pursuant to the exercise of a right to purchase under a lease agreement, provided that the lessee has been in continuous possession of such vehicle for a period of one year or longer and further, provided, that the lessor has paid either the tax imposed under section 2 of this Act at the time of titling or licensing the vehicle in this state or the excise tax imposed by chapter 57-39.1 or chapter 57-40.1 of the North Dakota Century Code.
10. "Purchaser" shall mean any person owning or in possession of a motor vehicle who makes application to the motor vehicle registrar for registration plates or a certificate of title for such vehicle.

§ 2. Tax Imposed.) There is hereby imposed an excise tax at the rate of two and one-quarter percent on the purchase

price of any motor vehicle purchased or acquired either in or outside of the state of North Dakota for use on the streets and highways of this state and required to be registered under the laws of this state.

§ 3. 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. 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.
2. Any motor vehicle which is expressly exempt from the title registration provisions of chapter 39-05.
3. Common carrier vehicles engaged in interstate commerce.

§ 4. Purchaser to Furnish "Motor Vehicle Purchaser's Certificate" to Motor Vehicle Registrar.) Any person purchasing a motor vehicle and any person acquiring a motor vehicle by way of gift from a husband or wife or from a parent or child shall complete a "Motor Vehicle Purchaser's Certificate" in such form and manner as may be prescribed by the motor vehicle registrar, showing a complete description of the motor vehicle, the seller's name and address, the buyer's name and address, the full purchase price of the vehicle, trade-in allowance, if any, whether the vehicle was the subject of a gift, and any other information that the motor vehicle registrar may require.

§ 5. Presentation of "Motor Vehicle Purchaser's Certificate" to Motor Vehicle Registrar.) No title or license registration shall be issued by the motor vehicle registrar for a motor vehicle purchased or acquired by way of gift from a husband or wife or from a parent or child unless and until the applicant therefor shall attach a properly executed "Motor Vehicle Purchaser's Certificate" to the application for title or license registration. If a license application is made for a motor vehicle that has been previously licensed in this state and the applicant for license is the same person in whose name the license registration had previously been issued the "Motor Vehicle Purchaser's Certificate" need not be submitted to the motor vehicle registrar.

§ 6. Title or License Registration Not To Be Issued Unless Tax Paid.) No title or license registration shall be issued by the motor vehicle registrar for the ownership or operation of any motor vehicle to any applicant for title or license registration other than for those vehicles which have been previously licensed and the applicant for license registration is the same person in whose name the license registration had previously been issued or other than for those vehicles transferred by way of gift between a husband and wife or parent and child unless the tax imposed by section 2 of this Act shall be paid by the applicant to the motor vehicle registrar.

§ 7. Presumption.) For the purpose of the proper administration of this Act and to prevent evasion of the tax, the following presumptions shall apply:

1. Evidence that a motor vehicle 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 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 it was purchased or acquired for use on the streets and highways of this state. This presumption shall apply whether or not such vehicle was previously titled or registered in another state.

§ 8. Credit for Excise Tax Paid in Other States—Reciprocity.) If any motor vehicle 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 Act, the provisions of this Act shall apply, but at a rate measured by the difference only between the rate fixed in this Act 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 Act, then no tax shall be due on such motor vehicle. The provisions of this section shall apply only if such other state allows a credit with respect to the excise tax imposed by this Act which is substantially similar in effect to the credit allowed by this section.

§ 9. Allocation of Revenue.) All moneys collected and received under this Act shall be transmitted monthly by the motor vehicle registrar to the state tax commissioner and by him shall be paid to the state treasurer to be transferred and credited as follows:

1. Fifty percent of the tax accruing under this Act on motor vehicles purchased or acquired outside of this state for use in this state, shall be credited to the motor vehicle registration fund.
2. The remaining fifty percent of the tax accruing under this Act on motor vehicles purchased or acquired outside of the state for use in this state shall be credited to the general fund.
3. All moneys accruing under this Act on motor vehicles purchased in this state shall be credited to the general fund.

§ 10. Penalties.) 1. Any person who shall complete or submit a false or fraudulent "Motor Vehicle Purchaser's Certificate" with intent to defeat or evade the tax imposed under this Act shall be guilty of a misdemeanor, and for each such offense, shall be fined not to exceed five hundred dollars or shall be imprisoned in the county jail not to exceed one year, or shall be subject to both such fine and imprisonment, in the discretion of the court.

2. Any person who 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 one hundred dollars, or by imprisonment in the county jail for not less than twenty days nor more than thirty days, or both such fine and imprisonment.

§ 11. Motor Vehicle Registrar to Act as Agent of Tax Commissioner in Administration of Motor Vehicle Use Tax.) The state tax commissioner is charged with the administration of this Act. The tax commissioner may prescribe all rules and regulations, not inconsistent with the provisions of this Act, necessary and advisable for the proper and efficient administration of this Act. The collection of this motor vehicle excise tax shall be carried out by the motor vehicle registrar who shall act as the agent of the state tax commissioner and who shall be subject to all rules and regulations, not inconsistent with the provisions of this Act, that may be prescribed by the tax commissioner. The provisions of this Act shall not be construed as preventing the collection of motor vehicle excise taxes by the tax commissioner in the course of any audit carried on by the tax commissioner. The motor vehicle registrar shall furnish sufficient information to the tax commissioner relating to all license or title applications for mobile homes or house trailers purchased outside of the state of North Dakota for use in this state, to enable the tax commissioner to collect use tax on such mobile homes or house trailers.

§ 12. **Effective Date.**) The provisions of this Act shall become effective April 1, 1967.

*13. **Repeal.**) Chapters 57-39.1 and 57-40.1 of the 1965 Supplement to the North Dakota Century Code are hereby repealed.

§ 14. **Emergency.**) This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved February 27, 1967.

*Note: Section 57-40.1-07 was also amended by section 3 of chapter 304, 1967 S.L.

CHAPTER 463

H. B. No. 941
(Committee on Delayed Bills)

ADDITIONAL MOTOR VEHICLE EXCISE TAX

AN ACT

To create and enact a new chapter to the North Dakota Century Code, imposing a three-quarters of one percent motor vehicle excise tax, exemptions thereto, manner of collection, penalties, allocation of revenue and to repeal chapters 57-39.1 and 57-40.1 of the North Dakota Century Code, and declaring an emergency.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **Definitions.**) The following words, terms and phrases, when used in this Act, shall 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. "Motor vehicle registrar" shall mean the registrar of motor vehicles who is the officer in charge of the motor vehicle department of this state and who shall act as the agent of the state tax commissioner in administering the provisions of this chapter.
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. "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, and every trailer and semitrailer for which a certificate of title is required to be obtained pursuant to the provisions of chapter 39-05, but not including house trailers, or mobile homes.
5. "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".
6. "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".
7. "Use" shall mean the exercise by any person of any right or power over a motor vehicle 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.
8. "Sale", "sells", "selling", "purchase", "purchased" or "acquired" shall include any transfer of title or ownership of a motor vehicle by way of gift, exchange or barter, or by any other manner or by any other means whatsoever for or without consideration except that these terms shall not include acquisition by inheritance from, or by bequest of a decedent who owned it, nor shall these terms include the transfer of a motor vehicle which was previously titled or licensed in the names of two or more joint tenants and subsequently transferred without monetary consideration to one or more of the joint tenants, nor shall these terms include the transfer of a motor vehicle by way of gift between a husband and wife or parent and child.

9. "Purchase price" means the total amount paid for the motor vehicle whether received in money or otherwise, provided, however, that when a motor vehicle is taken in trade as a credit or as part payment on a motor vehicle taxable under this Act, the credit or trade-in value allowed by the person selling the motor vehicle shall be deducted from the total selling price to establish the purchase price of the vehicle being sold and the trade-in allowance allowed by the seller shall constitute the purchase price of the motor vehicle accepted as a trade-in. "Purchase price" in those instances where the motor vehicle is acquired by gift or by any other transfer for a nominal or no monetary consideration, shall also include the average value of similar motor vehicles, established by standards and guides as determined by the motor vehicle registrar. "Purchase price" in those instances where a motor vehicle is manufactured by a person who registers it under the laws of this state, shall mean the manufactured cost of such motor vehicle 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, manufactured costs shall mean the reasonable value of the completed motor vehicle. The term "purchase price" shall not include the transfer of a motor vehicle by way of gift between a husband and wife or parent and child and shall not include the transfer of a motor vehicle between a lessee and lessor pursuant to the exercise of a right to purchase under a lease agreement, provided that the lessee has been in continuous possession of such vehicle for a period of one year or longer and further, provided, that the lessor has paid either the tax imposed under section 2 of this Act at the time of titling or licensing the vehicle in this state or the excise tax imposed by chapter 57-39.1 or chapter 57-40.1 of the North Dakota Century Code.
10. "Purchaser" shall mean any person owning or in possession of a motor vehicle who makes application to the motor vehicle registrar for registration plates or a certificate of title for such vehicle.

§ 2. Tax Imposed.) There is hereby imposed an excise tax at the rate of three-quarters of one percent on the purchase price of any motor vehicle purchased or acquired either in or outside of the state of North Dakota for use on the streets and highways of this state and required to be registered under the laws of this state. The tax herein imposed shall be in

addition to any other tax provided for by law on the purchase price of any motor vehicle purchased or acquired either in or outside of the state of North Dakota for use on the streets and highways of this state and required to be registered under the laws of this state.

§ 3. 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. 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.
2. Any motor vehicle which is expressly exempt from the title registration provisions of chapter 39-05.
3. Common carrier vehicles engaged in interstate commerce.

§ 4. Purchaser to Furnish "Motor Vehicle Purchaser's Certificate" to Motor Vehicle Registrar.) Any person purchasing a motor vehicle and any person acquiring a motor vehicle by way of gift from a husband or wife or from a parent or child shall complete a "Motor Vehicle Purchaser's Certificate" in such form and manner as may be prescribed by the motor vehicle registrar, showing a complete description of the motor vehicle, the seller's name and address, the buyer's name and address, the full purchase price of the vehicle, trade-in allowance, if any, whether the vehicle was the subject of a gift, and any other information that the motor vehicle registrar may require.

§ 5. Presentation of "Motor Vehicle Purchaser's Certificate" to Motor Vehicle Registrar.) No title or license registration shall be issued by the motor vehicle registrar for a motor vehicle purchased or acquired by way of gift from a husband or wife or from a parent or child unless and until the applicant therefor shall attach a properly executed "Motor Vehicle Purchaser's Certificate" to the application for title or license registration. If a license application is made for a motor vehicle that has been previously licensed in this state and the applicant for license is the same person in whose name the license registration had previously been issued the "Motor Vehicle Purchaser's Certificate" need not be submitted to the motor vehicle registrar.

§ 6. Title or License Registration Not To Be Issued Unless Tax Paid.) No title or license registration shall be issued by the motor vehicle registrar for the ownership or operation of any motor vehicle to any applicant for title or license registration other than for those vehicles which have been previously licensed and the applicant for license registration is the same person in whose name the license registration had previously been issued or other than for those vehicles transferred by way of gift between a husband and wife or parent and child unless the tax imposed by section 2 of this Act shall be paid by the applicant to the motor vehicle registrar.

§ 7. Presumption.) For the purpose of the proper administration of this Act and to prevent evasion of the tax, the following presumptions shall apply:

1. Evidence that a motor vehicle 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 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 it was purchased or acquired for use on the streets and highways of this state. This presumption shall apply whether or not such vehicle was previously titled or registered in another state.

§ 8. Credit for Excise Tax Paid in Other States — Reciprocity.) If any motor vehicle 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 Act, the provisions of this Act shall apply, but at a rate measured by the difference only between the rate fixed in this Act 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 Act, then no tax shall be due on such motor vehicle. The provisions of this section shall apply only if such other state allows a credit with respect to the excise tax imposed by this Act which is substantially similar in effect to the credit allowed by this section.

§ 9. Allocation of Revenue.) All moneys collected and received under this Act shall be transmitted monthly by the motor vehicle registrar to the state tax commissioner and by him shall be paid to the state treasurer to be transferred and credited as follows:

1. Fifty percent of the tax accruing under this Act on motor vehicles purchased or acquired outside of this state for use in this state, shall be credited to the motor vehicle registration fund.
2. The remaining fifty percent of the tax accruing under this Act on motor vehicles purchased or acquired outside of the state for use in this state shall be credited to the general fund.
3. All moneys accruing under this Act on motor vehicles purchased in this state shall be credited to the general fund.

§ 10. Penalties.) 1. Any person who shall complete or submit a false or fraudulent "Motor Vehicle Purchaser's Certificate" with intent to defeat or evade the tax imposed under this Act shall be guilty of a misdemeanor, and for each such offense, shall be fined not to exceed five hundred dollars or shall be imprisoned in the county jail not to exceed one year, or shall be subject to both such fine and imprisonment, in the discretion of the court.

2. Any person who 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 one hundred dollars, or by imprisonment in the county jail for not less than twenty days nor more than thirty days, or both such fine and imprisonment.

§ 11. Motor Vehicle Registrar to Act as Agent of Tax Commissioner in Administration of Motor Vehicle Use Tax.) The state tax commissioner is charged with the administration of this Act. The tax commissioner may prescribe all rules and regulations, not inconsistent with the provisions of this Act, necessary and advisable for the proper and efficient administration of this Act. The collection of this motor vehicle excise tax shall be carried out by the motor vehicle registrar who shall act as the agent of the state tax commissioner and who shall be subject to all rules and regulations, not inconsistent with the provisions of this Act, that may be prescribed by the tax commissioner. The provisions of this Act shall not be construed as preventing the collection of motor vehicle excise taxes by the tax commissioner in the course of any audit carried on by the tax commissioner. The motor vehicle registrar shall furnish sufficient information to the tax commissioner relating to all license or title applications for mobile homes or house trailers purchased outside of the state of North Dakota for use in this state, to enable the tax commissioner to collect use tax on such mobile homes or house trailers.

§ 12. **Effective Date.)** The provisions of this Act shall become effective April 1, 1967.

*§ 13. **Repeal.)** Chapters 57-39.1 and 57-40.1 of the 1965 Supplement to the North Dakota Century Code are hereby repealed.

*Note: Section 57-40.1-07 was also amended by section 3 of chapter 304, 1967 S.L.

§ 14. **Emergency.)** This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Filed March 13, 1967.

Note: Chapter 463 was vetoed by the governor on February 27, 1967. This veto was subsequently overridden by the house of representatives on March 1, 1967, and by the senate on March 3, 1967.

CHAPTER 464

H. B. No. 763

(Williamson, Backes, Sanstead, Strinden)

INCOME TAX RETURNS OF ARMED FORCES MEMBERS

AN ACT

Extending the time for filing income tax returns and extending the time for payment of income tax and eliminating the attachment of interest and penalty during extension period for members of the armed forces and merchant marine serving outside of boundaries of the United States, providing a termination date and declaring an emergency.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **Extension of Time for Filing Income Tax Returns and Payment of Income Tax.)** A taxpayer actively serving in the armed forces or merchant marine, outside the boundaries of the United States, may defer the filing of an income tax return and the payment of income tax until:

1. The fifteenth day of the third month after his return to the United States, or
2. The fifteenth day of the third month after his discharge from the military service of the United States merchant marine, if he remains, after discharge, outside the boundaries of the United States, or

3. The fifteenth day of the third month after an administrator or executor has been appointed for the estate of the taxpayer, or
4. December 31, 1968, whichever of said dates shall first occur.

§ 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 24, 1967.

CHAPTER 465

H. B. No. 532

(Davis, Reimers)

(Recommended by Legislative Audit and Fiscal Review Committee)

MOTOR FUEL TAX REFUNDS

AN ACT

To amend and reenact section 57-50-04 of the North Dakota Century Code, relating to motor fuel tax refunds.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **Amendment.)** Section 57-50-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

***57-50-04. State Auditor to Audit and Approve Claim — Investigation of Doubtful Claims—Payment of Claims.)** The state auditor, upon the presentation of such sworn claim, shall audit said claim for refund and prepare, in duplicate, an abstract showing the claim number, the name and address and the amount due each claimant, and shall approve and submit such claims for payment within thirty days of the receipt thereof in the state auditor's office unless the auditor shall be in doubt as to the validity of any claim, in which case the auditor may withhold the approval thereof for a reasonable time for purposes of investigation. The state auditor may authorize any employee or agent of his office to investigate doubtful claims and make a report of his findings to the auditor, who shall thereupon promptly approve or reject such

***Note:** Section 57-50-04 was also amended by section 17 of chapter 376, 1967 S.L.

claim as the facts may warrant. All claims approved by the auditor shall be paid by warrant-checks prepared by the department of accounts and purchases.

Approved March 3, 1967.

CHAPTER 466

H. B. No. 632
(Johnson(23), Gackle)

MOTOR FUEL TAX REFUNDS TO INDIVIDUALS
AND CORPORATIONS

AN ACT

To amend and reenact section 57-50-05.1 of the North Dakota Century Code, relating to motor fuel tax refunds to private individuals and corporations.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **Amendment.**) Section 57-50-05.1 of the North Dakota Century Code is hereby amended and reenacted 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, if the work performed by a person, firm or private corporation is paid for from public funds of the United States, state, county, city, village, township, park district or other municipality.

Approved February 24, 1967.

CHAPTER 467

H. B. No. 631
(Johnson(23), Gackle)

SPECIAL FUEL USER

AN ACT

To amend and reenact subsection 7 of section 57-52-03 of the North Dakota Century Code and subsection 6 of section 57-53-01 of the North Dakota Century Code, relating to the definition of special fuel user.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Amendment.) Subsection 7 of section 57-52-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

7. "Special fuel user" means any person receiving or purchasing special fuel except that it shall not include a person purchasing or receiving special fuels when such fuel is to be used for heating, industrial, agricultural or railroad purposes nor shall it include a special fuels dealer purchasing or receiving special fuel for resale; and

§ 2. Amendment.) Subsection 6 of section 57-53-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6. "Special fuel user" means any person receiving or purchasing special fuel to be used for agricultural, industrial, heating or railroad purposes;

Approved February 24, 1967.

CHAPTER 468

S. B. No. 153
(Becker)

NATIVE WOODLAND TAX

AN ACT

To provide for a native woodland tax, prescribing the land that may be subject to such tax, prescribing the duties of the state forester and local assessor, providing for the rate and manner of collection of said tax, the conditions for eligibility under the native woodland tax, declassification orders, and hearings and appeals from orders of the state forester.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Definitions.) As used in this Act, unless the context or subject matter otherwise clearly requires:

1. "Native woodland" means an area of land normally supporting a growth of natural forest cover;
2. "State forester" means the president of the North Dakota school of forestry or his legally constituted successor; and, where reasonable, the agents and personnel under his control.

§ 2. Eligibility To Be Taxed — Application.) Beginning January 1, 1968, the owner or his agent, having any tract of native woodland ten acres or larger in size, may file an application with the state forester setting forth a description of property which he desires to place under the woodland tax and on which land he will practice forestry. The state forester shall prescribe the form of such application blanks and make them available to all persons desiring to subject native woodlands owned by them to the provisions of this Act.

§ 3. Duties of the State Forester.) Upon the filing of the application provided for in section 2 of this Act, the state forester shall examine the land and if he finds that the native woodland will produce a forest cover, the state forester shall enter an order approving the application. A copy of such order shall be forwarded to the owner or his agent, to the local assessor of any township or district wherein the land is located, to the clerk of the township if the township is organized, and to the county auditor.

§ 4. Application and Order to Constitute a Contract.) The application of the owner or his agent and the filing of the order by the state forester shall constitute a contract, running with

the land, for a period of five years, unless terminated as provided in this Act. Any order issued on or before March first of any year shall take effect in such year, but all orders issued after March first of any year shall take effect the following year. If at the end of five years the contract is not renewed by mutual consent, the land shall be declassified and shall be removed from the provisions of this Act.

§ 5. Duty of Local Assessor.) The local assessor in preparing the tax roll shall show the acreage for each owner covered by the provisions of this Act in a column designated by the words "Native Woodland Tax Law" or the initials "N. W. T. L."

§ 6. Liability, Rate, and Collection of the Tax—Lieu Tax.) The owner shall be liable and shall pay to the county treasurer at the same time taxes on other real property are due, a tax computed at a rate determined to be equitable by the county commissioners and the state forester on the land approved for entry under this Act. Such tax shall be a part of the total real property taxes on the land of the owner and subject to collection in the same manner as any other real property taxes. The payment of the taxes herein imposed shall be in lieu of all ad valorem taxes by the state, counties, towns, townships, school districts, and other municipalities upon any property rights attached to such native woodlands. It is expressly provided that the native woodland tax shall not be in lieu of income taxes nor excise taxes upon the sale of forest products or services that may be derived from such native woodlands. It is expressly provided that the native woodland tax rate shall not exceed the rate as determined by the state and county levy. The county commissioners and the state forester may meet to consider the native woodland tax rate at any time deemed suitable or necessary by both parties.

§ 7. Destructive Practices Prohibited — Declassification — Management and Assistance of the State Forester.) If native woodlands are cleared, grazed, burned, cut, or otherwise dealt with in a destructive manner as determined by the state forester, they may be subject to declassification and return to the regular tax rolls. At the request of the owner or his agent the state forester may assist in preparing and carrying out a forest management plan for the orderly development of these woodlands.

§ 8. Report of the State Forester—Declassification Orders.) The state forester shall make an annual written report as to the forest practices of each woodland owner or his agent covering lands enrolled under this Act. If the state forester finds that the owner or his agent has not complied with the law, or if the land is no longer used for forestry purposes, he shall

issue an order removing the land from the native woodland tax law classification. Any declassification order issued on or before March first of any year shall take effect in such year. A copy of the declassification order shall be sent to the owner or his agent, to the local assessor of the township or district wherein the land is located, to the clerk of the township if the township is organized, and to the county auditor. Any order issued under this section shall be final unless set aside pursuant to the provisions of section 9 of this Act.

§ 9. Public Hearing by Petition—Hearing Board—Presiding Officer.) The owner or his agent, board of township supervisors, or board of county commissioners may petition the state forester for a public hearing to take testimony and hear evidence on whether lands shall be entered or continued under this Act. Upon filing of such petition, the state forester shall set such matter for public hearing at such time as he sees fit in the county wherein the land is located, but not later than ninety days from the date of the filing of the petition. The state forester, the county auditor, and the local assessor of the township wherein the lands are located shall constitute the hearing board. The state forester shall be the presiding officer of the hearing and shall give thirty days written notice of the hearing to the owner or his agent, board of township supervisors, and the board of county commissioners. Such hearing may be deferred not more than sixty days after notice to the parties involved.

§ 10. Procedural Rules for Hearing — Decision — Appeal.) A written record shall be made of all testimony offered at any hearing before the hearing board. A transcript of the testimony taken by or before the hearing board shall be furnished to any party upon written request therefor. After hearing all the testimony and after making such independent investigations as they deem necessary, the hearing board shall make their findings fact and the decision of the majority will rule. The state forester as the presiding officer of the hearing board will make and enter this order accordingly within thirty days after the final adjournment of the hearing. An appeal may be taken to the district court of the county wherein the land in question is located within thirty days after notice thereof is given to each of the parties to the proceeding. Only final orders or decisions substantially affecting the rights of parties shall be appealable. A procedural order made by the state forester or the hearing board during the hearing shall not be deemed a final order nor an order affecting a substantial right. Such appeal shall be taken pursuant to the provisions of section 28-32-15. An appeal from a determination or decision of the hearing board shall not stay the enforcement of such determination or decision

unless the court to which the appeal is taken, upon application and after a hearing, shall order a stay. The court may impose such terms and conditions for a stay of the enforcement of the determination or decision appealed as it shall deem proper.

Approved March 1, 1967.

CHAPTER 469

H. B. No. 728

(Brown, Johnson(23), Strinden, Kingsbury, Erickson(26),
(Seibel, Mathiason)

PERSONAL PROPERTY TAX COMMISSION

AN ACT

Providing for the creation of a special commission on personal property taxes for the purpose of developing and presenting to the Forty-first Legislative Assembly a program for the complete elimination of remaining personal property taxes, making an appropriation, and declaring an emergency.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Personal Property Tax Commission.) There is hereby created a personal property tax commission consisting of four members of the house of representatives appointed by the speaker of the house, three members of the senate appointed by the president of the senate, and twelve public members to be appointed by the legislative members of the commission. Nine of such public members shall be appointed from lists of citizens submitted by organizations selected by the legislative members of the commission representing agriculture, labor, business, the professions, and political subdivisions. Three public members of the commission shall be selected by the legislative members of the commission from the general citizenry of the state.

§ 2. Organization of Commission—Procedure—Compensation.) The legislative members of the commission shall hold an organizational meeting at a time and place designated by the speaker of the house of representatives within forty-five days after the adjournment of the Fortieth Legislative Session for the purpose of selecting a temporary chairman and a temporary secretary and for determination of the organizations that shall be invited to submit names to the legislative members of the commission for appointment as public members of

the commission and for the selection of the *two general citizen members. A subsequent meeting shall be held at the call of the temporary chairman for the selection of the public members. Thereafter, the temporary chairman shall call a general meeting of the commission at which time it shall elect a permanent chairman and vice chairman and appoint or elect a secretary who need not be a member of the commission. The commission shall, consistent with state law, adopt such rules of operation and procedure as it shall deem necessary. Offices for such commission shall be provided upon its request in the legislative wing of the state capitol building. It shall employ such consultants and clerical or other employees as it deems necessary to carry out its duties. Members of the commission shall receive compensation and reimbursement for expenses in the same manner and amount as members of the legislative research committee. All departments of the executive branch of government and state institutions shall provide such reasonable assistance and such information as the commission may from time to time request, and the commission shall call upon the attorney general for such advice, counsel, and legal or drafting assistance as it may require. The commission shall make arrangements with the legislative research committee for the furnishing of stenographic and secretarial assistance upon such basis as may be mutually agreeable.

§ 3. Duties of Commission.) It shall be the duty of the commission to make a study in depth of methods and means of eliminating the remaining balance of personal property taxes, sources of replacement revenue for political subdivisions, and formulas for the distribution of such replacement revenues to political subdivisions on an equitable and permanent basis. It shall make a report prepared by the commission and its staff containing its findings, conclusions, and recommendations to the Forty-first Legislative Assembly, accompanied by drafts of suitable legislation to carry out such recommendations. Such recommendations and legislation shall provide for the elimination of the balance of personal property taxes in North Dakota, a source of replacement revenue for the resulting tax loss to political subdivisions because of the exemption of personal property from taxation, and a permanent equitable formula for the redistribution of such replacement revenue to the political subdivisions of the state.

***Note:** Section 1 of chapter 469 was amended by the Fortieth Legislative Assembly to provide for three public members, rather than two public members. It appears that the Fortieth Legislative Assembly, through an oversight, neglected to amend section 2 of chapter 469 to provide for three public members in the same manner as provided in section 1.

§ 4. **Appropriation.)** There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$50,000.00, or so much thereof as may be necessary, to the personal property tax commission for the purpose of carrying out the provisions of this Act during the period beginning with the effective date of this Act and ending June 30, 1969.

§ 5. **Emergency.)** This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 2, 1967.

TOWNSHIPS

CHAPTER 470

H. B. No. 666
(Burke, Lang)

ORGANIZATION OF TOWNSHIP

AN ACT

To amend and reenact section 58-02-01 of the North Dakota Century Code, relating to the organization of a township.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **Amendment.**) Section 58-02-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

58-02-01. Organization of Township — Petition — Election.) If twenty-five percent of the electors who voted for governor in the last general election of a congressional township which has an assessed valuation of more than forty thousand dollars and which contains twenty-five or more legal voters shall petition the board of county commissioners for the organization of the congressional township into a civil township, the board of county commissioners shall then submit the questions whether said township shall be organized to the electors in the congressional township. Thirty days published notice in at least one newspaper of general circulation in the township shall be given of the election. If a majority of the votes cast approve of organization, the township shall then be organized, and if the petitions filed for organization did not designate a name, the board of county commissioners shall select one.

Approved February 28, 1967.

TRUSTS, USES, AND POWERS

CHAPTER 471

H. B. No. 776
(Aamoth, Kelsch)

PURPOSES OF EXPRESS TRUSTS

AN ACT

To amend and reenact section 59-03-02 of the North Dakota Century Code, relating to the purposes for which express trusts are created, and to provide a method of holding real property in trust with certain limited powers.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **Amendment.**) Section 59-03-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

59-03-02. Purposes for Which Express Trusts Created.) Express trusts may be created for any of the following purposes:

1. To sell real property and apply or dispose of the proceeds in accordance with the instrument creating the trust;
2. To mortgage or lease real property for the benefit of annuitants or other legatees or for the purpose of satisfying any charge thereon;
3. To receive the rents and profits of real property and pay or apply them to the use of any person, whether ascertained at the time of the creation of the trust or not, for himself or for his family during the life of such person or for any shorter term, subject to the rules of title 47, Property;
4. To receive the rents and profits of real property and to accumulate the same for the purposes and within the limits prescribed by chapter 3 of title 47, Property;

No trust relating to real property shall fail nor shall any use relating to real property be defeated because no beneficiaries are specified by name in the recorded deed of conveyance to the trustee or because no duties are imposed upon the trustee, notwithstanding the provisions of sections 59-03-04 and 59-03-05. Power conferred by any such instrument on a trustee to sell,

lease, encumber, or otherwise dispose of property therein described shall be effective and no person dealing with such trustee shall be required to make further inquiry as to the right of such trustee to act, nor shall he be required to inquire as to the disposition of any proceeds. Nothing in this section shall be construed to affect any right which a creditor may otherwise have against a trustee or beneficiary, or to affect the rule against perpetuities.

Approved March 16, 1967.

WAREHOUSING AND DEPOSITS

CHAPTER 472

H. B. No. 785
(Jones, Olienyk)

ROVING GRAIN AND HAY BUYER

AN ACT

To amend and reenact sections 60-03-02 and 60-03-04 of the North Dakota Century Code, relating to the agent for process, the licensing of roving grain and hay buyers, limiting the liability on the bond therefor and requiring the public service commission to make orders upon defalcations on the bond.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **Amendment.)** Section 60-03-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

60-03-02. License—How Obtained—Fee.) Each roving grain or hay buyer operating within this state must obtain a license through the commission to expire at midnight on July thirty-first of each year. Each license so issued shall designate the business address of the licensee, and each licensee shall have and maintain an agent for process within this state. The license fee which must accompany the application for license shall be ten dollars. The commission may require a separate license for each truck or tractor-trailer unit used in such grain or hay buying.

§ 2. **Amendment.)** Section 60-03-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

60-03-04. Bond Filing by Roving Grain or Hay Buyer—Complaint Procedure—Orders.) Before any license is issued to any roving grain or hay buyer, the applicant shall file with the commission a bond in such sum as the commission shall prescribe, but not less than ten thousand dollars for each license. Such bond shall:

1. Cover the period of the license;
2. Run to the state of North Dakota for the use and benefit of all persons selling grain or hay to the licensee;

3. Be conditioned for the faithful performance of the duties of the licensee as a roving grain or hay buyer, and be for the specific purpose of protecting persons dealing with the licensee or his or their agent or agents within the state of North Dakota from loss or damage by reason of any violation of this chapter;
4. Not covering transactions wherein it appears to the commission that the sale was made upon any other terms except than for cash; and
5. Be governed by all of the provisions of law applicable to the business of a roving grain or hay buyer and the rules and regulations of the commission relating thereto.

Any person claiming to be injured or damaged by a breach of the conditions of the bond given by a licensee under the provisions of this chapter may file a complaint with the commission within six months from the date of the breach of the conditions of the bond. After a hearing, held upon notice to the respondent and to the bonding company, the commission shall be empowered to order the respondent or the bonding company, or both, to pay to the complainant any loss or damage suffered by reason of the breach of the conditions of the bond. If more than one person has been damaged, and the bond is insufficient to pay the entire liability, the penalty of the bond as against the surety shall be ordered to be apportioned among the damaged persons.

Approved March 6, 1967.

WATERS

CHAPTER 473

S. B. No. 235
(Hofstrand, Trenbeath)

POWERS OF BOARD OF COMMISSIONERS OF WATER MANAGEMENT DISTRICTS

AN ACT

To amend and reenact subsection 11 of section 61-16-11 of the 1965 Supplement to the North Dakota Century Code, relating to powers and duties of board of commissioners.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **Amendment.**) Subsection 11 of section 61-16-11 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

11. To have, in addition to any powers provided in this chapter, all of the powers conferred by statutes upon a board of county drain commissioners;

Approved March 14, 1967.

CHAPTER 474

S. B. No. 295
(Trenbeath)

AUTHORITY OF BOARD OF COMMISSIONERS
OF WATER MANAGEMENT DISTRICT

AN ACT

To create and enact subsection 16 of section 61-16-11 and to amend and reenact subsection 10 of section 61-16-11 and sections 61-16-07 and 61-16-15 of the North Dakota Century Code, relating to the authority of the board of commissioners of a water management district to pledge security, the board members appointment, their authority to participate in outdoor recreation projects and the approval of such board prior to the construction of certain water impoundments.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Amendment.) Subsection 10 of section 61-16-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

10. To do all things reasonably necessary and proper to preserve the benefits to be derived from the conservation, control and regulation of the water resources of this state including, but not limited to, the construction, operation and maintenance of recreational facilities including, but not limited to, beaches, swimming areas, boat docking and landing facilities, toilets, wells, picnic tables, trash receptacles and parking areas and to establish and enforce rules and regulations for the use thereof;

§ 2.) Subsection 16 of section 61-16-11 of the North Dakota Century Code is hereby created and enacted to read as follows:

16. To borrow money within the limitations imposed by this chapter for projects herein authorized and to pledge security for the repayment of such money.

§ 3. Amendment.) Section 61-16-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-16-07. Board of Commissioners—Appointment and Number.) When an order of the state water commission, creating a water management district, has been filed in the office of the county auditor of a county in which such district or a part of such district is situated, a board of district commissioners shall

be appointed as provided herein. If the boundaries of such district are confined within one county the board of county commissioners thereof shall appoint a district board consisting of three commissioners. When a district includes territory within two counties, the board of commissioners shall consist of five members, three of whom shall be appointed by the board of commissioners of the county in which that part of the district lies which has the larger aggregate taxable valuation of property in the district and two members of the board shall be appointed by the board of county commissioners of the county in which the part of the district lies having the lesser aggregate taxable valuation. If a district includes territory in three counties, the board of commissioners shall consist of five members, one of whom shall be appointed by the board of county commissioners having the lowest aggregate taxable valuation of property in the district and two members of the board shall be appointed by the board of county commissioners of each of the other two counties. And when such district embraces territory in four counties, the board of commissioners shall consist of seven members, three of whom shall be appointed by the board of county commissioners of the county in which the part of the district lies which has the largest aggregate taxable valuation of property in the district, two members shall be appointed by the board of county commissioners of the county in which the part of the district lies which has the next highest aggregate taxable valuation of property, and one member shall be appointed by the county board of each of the other two counties.

§ 4. Amendment.) Section 61-16-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-16-15. Construction and Repair of Dam—Proposals for—Presented to Whom—Hearing Proposals.) No dams or other devices for water conservation, flood control regulation, watershed improvement or storage of water which are capable of retaining more than twelve and one-half acre feet of water shall be constructed within any water management district except in accordance with the provisions of this chapter. Any proposal for the construction of any dam or other facilities shall be presented first to the board of commissioners of the district within which the contemplated project is located. Such board shall consider the same, and if the proposal meets with its approval, it shall forward the proposal to the state water commission as soon as possible. After the receipt thereof, the state water commission shall consider the same in such detail as to it may seem necessary and proper, and shall make its recommendations and suggestions as to the propriety, ef-

iciency, and feasibility of the proposal, and, within forty-five days of its receipt forward the same to the board of commissioners. The board thereupon shall require, or if the project is to be constructed at the expense of the district shall furnish, complete plans and specifications therefor, which shall be forwarded to the state water commission. The state water commission shall examine the same in detail and, within forty-five days of the receipt of such plans and specifications shall either refuse to allow the construction of any unsafe, improper, or dangerous dam or other device which would interfere with the orderly control of the water resources of the district, or order such changes or modifications thereof as in its judgment may be necessary for safety. Any person aggrieved by any such ruling of the state water commission shall have the right to a full hearing before such commission and a full consideration of all evidence available before a final order of the state water commission shall be entered. Such order of the state water commission shall be subject to appeal to the district court as provided in this chapter.

Approved March 14, 1967.

CHAPTER 475

S. B. No. 389
(Trenbeath)

LEVY FOR CLEANING AND REPAIRING DRAINS

AN ACT

To amend and reenact section 61-21-46 of the North Dakota Century Code, relating to the maximum levy and accumulation thereof for cleaning and repairing drains.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **Amendment.)** Section 61-21-46 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-21-46. Maximum Levy — Accumulation of Fund.) The levy in any year for cleaning out and repairing a drain shall not exceed fifty cents per acre on any agricultural lands in the drainage district. 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 assessment 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 may accumulate a fund in an amount not exceeding the sum produced by such maximum permissible levy for two years. If the cost of, or obligations for, the cleaning and repair of any drain shall exceed the total amount which can be levied by the board in any two year period, the board shall obtain an affirmative vote of the majority of the landowners as determined by section 61-21-16 prior to obligating the district for such costs.

Approved March 10, 1967.

CHAPTER 476

H. B. No. 635

(Jones, Tollefson, Hoghaug, Bier, Mueller, Boyum)

ISLANDS AND LANDS IN NAVIGABLE STREAMS

AN ACT

To amend and reenact section 47-06-08 and subsections 11 and 12 of section 61-24-08 and to create and enact subsection 13 of section 61-24-08 of the North Dakota Century Code, relating to the Garrison diversion conservancy district and to islands and lands in navigable streams.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Amendment.) Section 47-06-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

§ 47-06-08. Islands and Relicted Lands in Navigable Streams Belong to State.) Islands and accumulations of land formed in the beds of streams which are navigable belong to the state, if there is no title or prescription to the contrary. The control and management, including the power to execute mineral leases, of islands, relictions and accumulations of land owned

by the state of North Dakota in navigable streams and waters and the beds thereof, shall be in the bank of North Dakota. All income and proceeds derived from such lands shall be deposited in the general fund for the purpose of defraying the general expenses of the state government. This section shall not be construed as affecting or changing the provisions of any contract already executed by or on behalf of the state of North Dakota or any department or agency thereof concerning such lands and shall not apply to lands within the Garrison diversion conservancy district.

§ 2. **Amendment.**) Subsections 11 and 12 of section 61-24-08 of the 1965 Supplement to the North Dakota Century Code are hereby amended and reenacted and section 61-24-08 of the 1965 Supplement to the North Dakota Century Code is hereby amended by the creation of subsection 13, all to read as follows:

11. To operate and maintain or to contract for the operation and maintenance of water supply and irrigation works serving lands and uses within the district, and in connection therewith, to maintain a reserve fund to meet major unforeseen costs of operation and maintenance;
12. To accept, on behalf of the district, appointment of the district as fiscal agent of the United States and authorization to make collections of money for and on behalf of the United States in connection with the Garrison diversion unit;
13. To exercise the control and management, including the power to dedicate to public use or to donate and convey to the United States for authorized purposes of the Garrison diversion unit, lands owned by the state of North Dakota in navigable streams and waters, including the bed thereof, where such lands lie within the district, as now constituted or may hereafter be modified west of the ninety-eighth meridian.

Approved March 10, 1967.

CHAPTER 477

S. B. No. 329
(Holand, Morgan)

GARRISON DIVERSION RIGHT-OF-WAY

AN ACT

To grant to the bureau of reclamation right-of-way necessary for the construction and development of Garrison diversion within the right-of-way of roads in the state upon approval of the state highway commissioner, board of county commissioners, or board of township supervisors, and declaring an emergency.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. State and Political Subdivisions Contracting with the Bureau of Reclamation—Roads.) In connection with the construction and development of the Garrison diversion unit of the Missouri river basin project, the highway authorities of the state, or any county or organized township or municipality, are authorized to enter into agreements with each other or with the federal government, respecting the financing, planning, establishment, relocation, improvement, maintenance, use, regulation, vacation, or abandonment of public ways in their respective jurisdictions. Where any such contracts require the relocation, vacation, or abandonment of particular public ways, the contracting state agency, county, organized township, or municipality shall be vested with and authorized to exercise the powers of the state in the relocation, vacation, or abandonment of existing public ways.

§ 2. Easement Granted for Ditches, Canals, Tramways, and Transmission Lines on Any Public Lands.) In connection with the construction and development of the Garrison diversion unit of the Missouri river basin project, there is granted over all the lands belonging to the state, including lands owned or acquired for highway right-of-way purposes, a right-of-way for ditches or canals and for tunnels, tramways, and telephone and electric transmission lines constructed as part of the Garrison diversion unit, provided, however, that the state highway commissioner, the board of county commissioners or the board of township supervisors must approve the plans of the bureau of reclamation with respect to the use of any and all right-of-way of roads under their respective control prior to such grant becoming effective.

§ 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 10, 1967.

CHAPTER 478

S. B. No. 66
(Trenbeath, Christensen)

IDENTIFICATION AND LICENSING OF BOATS

AN ACT

To amend and reenact section 61-27-02 and subsections 1, 2, 3, 5, 7, 8, 9, 10 and 11 of section 61-27-03 of the North Dakota Century Code, relating to the identification number and license of motorboats.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **Amendment.)** Section 61-27-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-27-02. Operation of Unnumbered and Unlicensed Motorboats Prohibited.) Every motorboat propelled by a motor having ten horsepower or more on the waters of this state shall be numbered and licensed as prescribed in this chapter. No person shall operate or give permission for the operation of any motorboat on such waters unless the motorboat is numbered and licensed in accordance with this chapter, or in accordance with applicable federal law, or in accordance with a federally approved numbering system of another state, and unless (1) the certificate of number awarded to such motorboat is in full force and effect, and (2) the identifying number set forth in the certificate of number is displayed on each side of the bow of such motorboat.

§ 2. **Amendment.)** Subsections 1, 2, 3, 5, 7, 8, 9, 10 and 11 of section 61-27-03 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

61-27-03. Identification Number and License.) 1. The owner of each motorboat requiring numbering and licensing by this state shall file an application for number and license with the department on forms approved by it. The application shall be signed by the owner of the motorboat and shall be accompanied by a fee of three dollars. Upon receipt of the application in

approved form, the department shall enter the same upon the records of its office and issue to the applicant a certificate of number and license stating the number awarded to the motorboat and the name and address of the owner. In instances where an identification number has previously been issued by the department, the same application procedure and fee shall apply for the issuance of a current license. The game and fish department shall pay all funds collected hereunder to the state treasurer who shall credit such funds thereof to the state game and fish fund to pay for the costs of administering this chapter. The owner shall attach to each side of the bow of the motorboat the identification number and current license in such manner as may be prescribed by rules and regulations of the department in order that it may be clearly visible. The number and license shall be maintained in legible condition. The certificate of number shall be available at all times for inspection on the motorboat for which issued, whenever such motorboat is in operation.

2. The owner of any motorboat already covered by a number in full force and effect which has been awarded to it pursuant to then operative federal law or a federally approved numbering system of another state may operate the motorboat on the waters of this state for the ninety-day reciprocity period provided for in section 61-27-05. After the ninety-day reciprocity period has expired, such motorboats shall be subject to the numbering and licensing provisions of subsection 1 of this section.

3. Should the ownership of a motorboat change, a new application form with the license fee prorated on a yearly basis shall be filed with the department and a new certificate of number and license shall be awarded in the same manner as provided for in an original award of number and license.

5. The department may award any certificate of number or license directly or may authorize any person to act as agent for the awarding thereof. In the event that a person accepts such authorization, he may be assigned a block of numbers, certificates, and licenses which upon award, in conformity with this chapter and with any rules and regulations of the department, shall be valid as if awarded directly by the department.

7. Every certificate of number and license awarded pursuant to this chapter shall continue in full force and effect for a period of three years unless sooner terminated or discontinued in accordance with the provisions of this chapter. Certificates of number and licenses may be renewed by the owner in the same manner provided for in the initial securing of the same.

8. The department shall fix a day and month of the year on which certificates of number and licenses due to expire during the calendar year shall lapse and no longer be of any force and effect unless renewed pursuant to this chapter.

9. The owner shall furnish the department notice of the transfer of all or any part of his interest other than the creation of a security interest in a motorboat numbered and licensed in this state pursuant to subsections 1 and 2 of this section or of the destruction or abandonment of such motorboat, within fifteen days thereof. Such transfer, destruction, or abandonment, shall terminate the certificate of number and license for such motorboat except, that in the case of a transfer of a part interest which does not affect the owner's right to operate such motorboat, such transfer shall not terminate the certificate of number and license.

10. Any holder of a certificate of number and license shall notify the department within fifteen days, if his address no longer conforms to the address appearing on the certificate and shall, as a part of such notification, furnish the department with his new address. The department may provide in its rules and regulations for the surrender of the certificate bearing the former address and its replacement with a certificate bearing the new address or for the alteration of an outstanding certificate to show the new address of the holder.

11. No number other than the number and license awarded to a motorboat or granted reciprocity pursuant to this chapter shall be painted, attached, or otherwise displayed on either side of the bow of such motorboat.

Approved March 14, 1967.

CHAPTER 479

H. B. No. 822

(Dick, Williamson, Sanstead, Burke, Haugland, Sandness,
(Lillehaugen, Dahlen)

POLLUTION OF SURFACE WATERS

AN ACT

To authorize the control, prevention, and abatement of pollution of the surface waters of the state, and providing a penalty.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Statement of Policy.) It is hereby declared to be the policy of the state of North Dakota to act in the public interest to protect, maintain and improve the quality of the waters in the state for continued use as public and private water supplies, propagation of wildlife, fish and aquatic life, and for domestic, agricultural, industrial, recreational and other legitimate beneficial uses, to require necessary and reasonable treatment of sewage, industrial, or other wastes and to cooperate with other agencies in the state, agencies of other states and the federal government in carrying out these objectives.

§ 2. Definitions.) For the purposes of this Act, the following words and phrases shall have the meanings ascribed to them in this section:

1. "Pollution" means such contamination, or other alteration of the physical, chemical or biological properties, of any waters of the state, including change in temperature, taste, color, turbidity, or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive, or other substance into any waters of the state as will or is likely to create a nuisance or render such waters harmful, detrimental or injurious to public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish or other aquatic life;
2. "Wastes" means sewage, industrial wastes, and all other liquid, gaseous, solid, radioactive, or other substances which may pollute or tend to pollute any waters of the state;
3. "Sewerage system" means pipelines or conduits, pumping stations, and force mains, and all other structures,

- devices, appurtenances, and facilities used for collecting or conducting wastes to an ultimate point for treatment or disposal;
4. "Treatment works" means any plant or other works used for the purpose of treating, stabilizing or holding wastes;
 5. "Disposal system" means a system for disposing of wastes, either by surface or underground methods, and includes sewerage systems, treatment works, disposal wells and other systems;
 6. "Waters of the state" means all waters within the jurisdiction of this state including all streams, lakes, ponds, impounding reservoirs, marshes, watercourses, waterways, and all other bodies or accumulations of surface water, natural or artificial, public or private, situated wholly or partly within or bordering upon the state, except those private waters which do not combine or effect a junction with natural surface or underground waters just defined;
 7. "Person" means the state or any agency or institution thereof, any municipality, political subdivision, public or private corporation, individual, partnership, association, or other entity, and includes any officer or governing or managing body of any municipality, political subdivision, or public or private corporation;
 8. "Department" shall mean the state department of health in the state of North Dakota; and
 9. "Board" shall mean the state water pollution control board.

§ 3. State Water Pollution Prevention Agency — Board.)

There is hereby created and established a state water pollution control board. The board shall consist of eight persons. It shall include the heads of the departments of health, water conservation, game and fish, and state geologist, and four citizen members appointed by the governor. Citizen members shall represent municipal, industrial, wildlife and agricultural interests. The executive secretary of the board shall be the chief sanitary engineer of the department.

Of the four members appointed by the governor, each shall serve six-year terms, except that of those first appointed two shall be appointed for three years, and two shall be for six years. The governor may fill any vacancy in the appointed membership of the board, and may remove any appointed member for cause.

The heads of departments on the board may, by official order filed with the executive secretary of the board, designate a representative of his department to perform the duties of the member making the designation. Such person, if any, designated pursuant to this section, shall have the powers and be subject to the duties and responsibilities of the appointing office.

All members of the board shall serve without compensation for their duties, but shall be reimbursed for necessary travel and other expenses incurred in the performance of their official duties. Reimbursement shall be paid out of funds allocated to the department for water pollution control.

The department shall provide the board with copies of maps, plans, documents, studies, surveys, and all other necessary information in order that the board may be fully cognizant of the current status of water pollution and its control in the state and to enable the board to advise and direct the department in development of programs for the prevention and control of pollution of the waters in the state and to direct actions to abate any existing pollution problems that may be brought to its attention.

§ 4. Powers and Duties.) The state department of health, under the direction of said board, shall have and may exercise the following powers and duties:

1. To exercise general supervision of the administration and enforcement of this Act and all rules and regulations and orders promulgated thereunder;
2. To develop comprehensive programs for the prevention, control and abatement of new or existing pollution of the waters of the state;
3. To advise, consult, and cooperate with other agencies of the state, the federal government, other states and interstate agencies, and with affected groups, political subdivisions, and industries in furtherance of the purposes of this Act;
4. To accept and administer loans and grants from the federal government and from other sources, public or private, for carrying out any of its functions, which loans and grants shall not be expended for other than the purposes for which provided;
5. To encourage, participate in, or conduct studies, investigations, research and demonstrations relating to water pollution and causes, prevention, control, and abatement thereof as it may deem advisable and necessary for the discharge of its duties under this Act;

6. To collect and disseminate information relating to water pollution and the prevention, control and abatement thereof;
7. To issue, modify, or revoke orders:
 - a. Prohibiting or abating discharges of wastes into the waters of the state;
 - b. Requiring the construction of new disposal systems or any parts thereof or the modification, extension or alteration of existing disposal systems or any parts thereof, or the adoption of other remedial measures to prevent, control or abate pollution;
8. To hold such hearings, to issue notices of hearings and subpoenas requiring the attendance of such witnesses and the production of such evidence, to administer such oaths, and to take such testimony as the department deems necessary, and any of these powers may be exercised on behalf of the department by any members thereof or a hearing officer designated by it;
9. To require the prior submission of plans, specifications, and other data relative to, and to inspect the construction of, disposal systems or any part thereof in connection with the issuance of approvals as are required by this Act;
10. To require proper maintenance and operation of disposal systems;
11. To exercise all incidental powers necessary to carry out the purposes of this Act;
12. The state department of health is hereby designated as the state water pollution control agency for all purposes of the Federal Water Pollution Control Act, as amended (33 U.S.C. 466), and is hereby authorized to take all action necessary or appropriate to secure to this state the benefits of that Act and similar federal acts.
13. In the administration of standards of water quality the department shall allow a reasonable time for persons discharging wastes into the waters of the state to comply with such standards.

§ 5. **Rules, Regulations and Standards.**) The state water pollution control board, jointly with the state health council, shall hold a public hearing to consider the adoption, amendment or repeal of rules, regulations, and standards of quality of the waters of the state as provided in this Act, and notice of such public hearing or hearings shall be given by publication

of a notice of such hearings or hearing in each of the official county newspapers within the state of North Dakota by at least two publications, one week apart, the last publication being at least ten days prior to said hearing and which hearing shall be held in the state capitol in Bismarck, at which hearings interested parties may present witnesses and other evidence pertinent and relevant to proposed rules, regulations, and standards, and the state water pollution control board shall consider any other matters related to the purposes of this Act and shall direct the department concerning the administration of this Act.

§ 6. Prohibitions.)

1. It shall be unlawful for any person:
 - a. To cause pollution of any waters of the state or to place or cause to be placed any wastes in a location where they are likely to cause pollution of any waters of the state; and
 - b. To discharge any wastes into any waters of the state which reduce the quality of such waters below the water quality standards established therefor by the department.
2. It shall be unlawful for any person to carry on any of the following activities without plans and specifications previously approved by the department and the state water commission:
 - a. The construction, installation, modification or operation of any disposal system or part thereof or any extension or addition thereto;
 - b. Cause a material increase in volume or strength of any wastes in excess of the permissive discharges specified under existing approved plans;
 - c. The construction, installation, or operation of any industrial, commercial, or other establishment or any extension or modification or addition thereof, the operation of which would cause an increase in the discharge of wastes into the waters of the state or would otherwise alter the physical, chemical, or biological properties of any waters of the state in any manner not already lawfully authorized;
 - d. The construction or use of any new outlet for the discharge of any wastes into the waters of the state.

§ 7. Proceedings.) Any proceeding under this Act for:

1. Issuance or modification of rules and regulations including emergency orders relating to control of water pollution; or
2. Determining compliance or violation with the provisions of this Act, or any rule, regulation, or order issued thereunder by the department shall be conducted in accordance with the provisions of chapter 28-32 entitled "Administrative Agencies Practice Act" of the North Dakota Century Code and appeals may be taken as provided. Where an emergency exists requiring immediate action to protect the quality of water for legitimate uses and the public health and welfare, the department may, without further notice or hearing, issue an order reciting the existence of such emergency and requiring that such immediate action be taken as is necessary to meet this emergency. Notwithstanding any provision of this Act, such order shall be effective immediately. Any person to whom such order is directed shall comply therewith immediately, but on application to the department shall be afforded a hearing before the state health council and the state water pollution control board within ten days. On the basis of such hearing, the emergency order shall be continued, modified or revoked within thirty days after such hearing.

§ 8. Penalties—Injunctions.)

1. Any person violating any provision of this Act or failing, neglecting, or refusing to comply with any rules, regulation or order issued thereunder shall be guilty of a misdemeanor and, upon conviction, shall be punished as provided by law.
2. The department may, in accordance with the laws of this state governing injunctions or other process, maintain an action in the name of the state against any person violating any provision of this Act or any rule, regulation or order issued thereunder.

§ 9. Conflicting Laws.) This Act shall not be construed as repealing any laws of the state relating to the pollution of waters thereof or any conservation laws, but shall be held and construed as auxiliary and supplementary thereto.

Approved March 16, 1967.

WEAPONS

CHAPTER 480

H. B. No. 685

(Freeman, Aas, Fossum, Hensrud)

CONCEALED WEAPONS AND FIREARMS

AN ACT

To amend and reenact section 62-03-01 of the North Dakota Century Code, relating to prohibition against carrying concealed weapons or firearms.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Amendment.) Section 62-03-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

62-03-01. Carrying Concealed Weapons or Firearms Prohibited.) No person, other than a police officer, shall carry concealed about his person any of the following weapons or firearms unless they are carried in the prosecution of or to effect a lawful and legitimate purpose:

1. Any instrument or weapon of the kind usually known as a blackjack, slung shot, billy, sandclub, sandbag, bludgeon, metal knuckles, knife with a blade of five inches or more, switchblade knife of any length, mechanically opening knife of any length, or any sharp or dangerous weapon which may be employed in the attack or defense of a person; and
2. Any gun or dangerous firearm whether the same is loaded or unloaded.

Approved February 24, 1967.

WEIGHTS, MEASURES, AND GRADES

CHAPTER 481

H. B. No. 779
(Opedahl, Bier)

WEIGHING AND MEASURING DEVICES INSPECTION FEES

AN ACT

To amend and reenact section 64-02-10 of the 1965 Supplement to the North Dakota Century Code, relating to the fees for inspection of weighing and measuring devices.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **Amendment.)** Section 64-02-10 of the 1965 Supplement to 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:

1. For inspecting railroad and track scale of capacity of twenty tons and upwards\$15.00
2. For inspecting vehicle scales and livestock scales to twenty thousand pounds capacity and under 8.00
3. For inspecting vehicle scales and livestock scales twenty thousand and one pounds capacity and over 14.00
4. For inspecting livestock scales under the jurisdiction of Packers and Stockers Act of the federal department of agriculture 20.00
5. For inspecting livestock scales under the jurisdiction of Packers and Stockers Act of the federal department of agriculture, where in the discretion of the chief inspector or his employee, the sales ring or buying station scale owner transports to the scale and furnishes all test weights and manpower needed to properly test the scale 14.00

6. For inspecting road construction truck scales.....	24.00
7. For inspecting hopper scales, six thousand and one pounds capacity and over	14.00
8. For inspecting overhead track scales, hanging scales and dormant scales, less than six thousand pounds capacity or hopper scales, each.....	6.00
9. For inspecting movable platform scales	1.50
10. For inspecting all counter and computing scales	1.50
11. For inspecting every patent balance, beam steel yard, or other instrument used for weighing other than the above enumerated, each	1.25
12. For inspecting any two-bushel or one-bushel measure .....	.50
13. For inspecting any other dry measure, each.....	.25
14. For inspecting any liquid measure or computing pump	3.25
15. 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
16. For inspecting liquid measures of five gallons or less capacity, each .....	.50
17. For inspecting gasoline and fuel oil meters.....	8.00
18. 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
19. For inspecting any tank under five hundred gallons	10.00
20. For inspecting propane meters	10.00
21. For inspecting any board of cloth measure, each .....	.25
22. 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 fifteen cents per mile will be made unless the motor vehicle, including the testing equipment necessary to perform such special inspection, shall weigh less than seven thousand five hundred pounds gross. In the event such motor vehicle shall weigh less than seven thousand five hundred pounds gross a charge of ten cents per mile will be made, and all such mileage charges shall be 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 14, 1967.

CHAPTER 482

H. B. No. 796
(Opedahl, Bier)

INSPECTION OF WEIGHING AND MEASURING DEVICES

AN ACT

To amend and reenact section 64-02-13 of the North Dakota Century Code, to require the owner of weighing or measuring apparatus to have the same inspected at least once each year.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **Amendment.**) Section 64-02-13 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

64-02-13. Employees of Department to Test Weights and Measuring Devices Annually.) The chief inspector or any other employee of the department may test:

1. Any scale, weight, beam, or measure of any kind;
2. Any instrument or mechanical device for measurement;
or
3. Any tool, appliance, or accessory connected with any instrument for measuring,

if the same is kept, offered, used, or employed, or is offered for sale or sold for the purpose of being used or employed, by any person in determining the size, quantity, extent, area, or measurement of quantities, things, produce, or articles for distribution or consumption which may be offered or submitted by any person for sale, hire, or reward. The owner of any weight, measure, or any other apparatus, hereinbefore described, used in this state is required to have the same inspected at least once each year. If upon inspection the said weight, measure or other apparatus shall correspond with the standards in the possession of the department, it shall be sealed with the proper device to be approved by the chief inspector except that inspections and testing of farm milk tank equipment shall be made only upon a complaint received by the department specifying that such equipment is in a faulty condition, or when such testing or inspections are deemed to be necessary in the discretion of the chief inspector. Upon receipt of a complaint, the chief inspector shall cause such equipment to be tested and inspected within a reasonable period of time, and in the case where, as a result of such testing and inspection,

the equipment is determined to be in accordance with the standards in the possession of the department, the cost of such inspection and testing shall be paid by the complainant; and in all other cases the cost of such testing and inspection shall be paid by the owner of the equipment.

Approved March 14, 1967.

WORKMEN'S COMPENSATION

CHAPTER 483

S. B. No. 194
(Longmire, Lowe, Larsen)

DEFINITIONS

AN ACT

To amend and reenact subdivision a of subsection 4 and subdivision a of subsection 8 of section 65-01-02 of the North Dakota Century Code, relating to workmen's compensation definitions.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Amendment.) Subdivision a of subsection 4 of section 65-01-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- a. "Hazardous employment" shall mean any employment in which one or more employees are employed regularly in the same business or in or about the establishment except:
1. Agricultural or domestic service; or
 2. Any employment of a common carrier by railroad; or
 3. Any employment for the transportation of property or persons by nonresidents, where, in such transportation, the highways are not traveled more than seven miles and return over the same route within the state of North Dakota; or
 4. All members of the clergy and employees of religious organizations engaged in the operation, maintenance and conduct of the place of worship;

§ 2. Amendment.) Subdivision a of subsection 8 of section 65-01-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- a. Any disease which can be fairly traceable to the employment. Compensation shall not be paid, however, for any condition which existed prior to the happening of a compensable injury nor for any disability chargeable to such condition. Ordinary diseases of life to which the general public outside

of the employment is exposed shall not be compensable except where the disease follows as an incident to, and in its inception is caused by a hazard to which an employee is subjected to in the course of his employment. The disease must be incidental to the character of the business and not independent of the relation of employer and employee. The disease includes impairment and effects from radiation fairly traceable to the employment. It need not have been foreseen or expected, but after it is contracted, it must appear to have had its origin in a risk connected with the employment and to have flowed from that source as a rational consequence; and

Approved February 24, 1967.

CHAPTER 484

H. B. No. 676

(Haugland, Solberg(2), Sanstead, Dornacker, Williamson, Link,
(Peterson(5), Stone, Backes, Fossum, Saugstad, Bullis)

COMPENSATION CLAIMS

AN ACT

To amend and reenact sections 65-05-01, 65-05-07, 65-05-08, 65-05-10, 65-05-13, 65-05-14, 65-05-17, and 65-05-26 of the North Dakota Century Code, relating to filing compensation claims, medical attention to injured employees, disability compensation, partial disability, scheduled injuries, permanent partial injuries, weekly compensation in death claims, and bureau burial expenses.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **Amendment.**) Section 65-05-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

65-05-01. Claims for Compensation — When and Where Filed.) All original claims for compensation for disability or death shall be filed within sixty days after injury or death. For any reasonable cause shown, however, the bureau may allow original claims for compensation for disability or death to be filed at any time within one year after the injury or death. The date of injury for purposes of this section shall be the actual date of injury when such can be determined with certainty by the claimant and bureau. When the actual date of injury cannot be determined with certainty the date of

injury shall be the first date the injury or diseased condition culminates in a need for medical attention or an incapacity of the employee for work. No compensation or benefits shall be allowed under the provisions of this title to any person, except as provided in section 65-05-04, unless he or she, or someone on his or her behalf, shall file a written claim therefor within the time specified in this section. Such claim shall be filed by:

1. Delivering it at the office of the bureau or to any person whom the bureau by regulation may designate; or
2. Depositing it in the mail properly stamped and addressed to the bureau or to any person whom the bureau by regulation may designate.

§ 2. **Amendment.)** Section 65-05-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

65-05-07. Injured Employee Given Medical and Hospital Service Required—Furnished Artificial Limbs and Appliances for Rehabilitation.) Immediately after an injury sustained by an employee and during the resulting period of disability, the fund shall furnish to the employee such medical, surgical, and hospital service and supplies as the nature of the injury may require. If the injury causes permanent partial disability, the fund, in addition to the specific benefits provided, may furnish such artificial limbs, glasses, braces, equipment, or appliances or provide such course of study, training, or education as in the judgment of the bureau may be necessary to rehabilitate such injured employee.

§ 3. **Amendment.)** Section 65-05-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

65-05-08. Compensation Not Paid Unless Period of Disability Is of Five Days Duration or More—Paid from Date of Injury.) No compensation will be paid for disability, the duration of which is less than five days. If the period of disability is of five days duration or more compensation shall be paid during disability.

§ 4. **Amendment.)** Section 65-05-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

65-05-10. Partial Disability—Weekly Compensation.) If the injury causes partial disability the fund shall pay to the disabled employee during such disability a weekly compensation to be fixed by the bureau.

§ 5. Amendment.) Section 65-05-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

65-05-13. Scheduled Injuries—Permanent Loss of Member—Weekly Compensation—Time Compensation Payable.) If the injury causes the loss of a member, the fund shall pay to the disabled employee a weekly compensation equal to thirty-one dollars and fifty cents per week for the following periods:

1. For loss of arm at shoulder 250 weeks;
2. For loss of arm at or above elbow 220 weeks;
3. For loss of hand at or above wrist 200 weeks;
4. For loss of thumb 65 weeks;
5. For loss of second or distal phalange of thumb 28 weeks;
6. For loss of first finger 40 weeks;
7. For loss of middle or second phalange of first finger 28 weeks;
8. For loss of third or distal phalange of first finger 22 weeks;
9. For loss of second finger 30 weeks;
10. For loss of middle or second phalange of second finger 22 weeks;
11. For loss of third or distal phalange of second finger 14 weeks;
12. For loss of third finger 20 weeks;
13. For loss of middle or second phalange of third finger 16 weeks;
14. For loss of third or distal phalange of third finger 10 weeks;
15. For loss of fourth finger 16 weeks;
16. For loss of middle or second phalange of fourth finger 12 weeks;
17. For loss of third or distal phalange of fourth finger 6 weeks;
18. For loss of leg at hip 234 weeks;
19. For loss of leg at or above knee 195 weeks;

20. For loss of foot at or above ankle	150 weeks;
21. For loss of great toe	30 weeks;
22. For loss of second or distal phalange of great toe	18 weeks;
23. For loss of any other toe	12 weeks;
24. For loss of middle or second phalange of any other toe	10 weeks;
25. For loss of third or distal phalange of any other toe	7 weeks;
26. For loss of an eye	150 weeks;
27. For loss of hearing in one ear	50 weeks;
28. For loss of hearing in both ears	200 weeks;

The amount paid for the loss of more than one finger of one hand shall not exceed the amount provided in this schedule for the loss of a hand. For the loss of the metacarpal bone, of the palm, together with the corresponding thumb or finger ten weeks shall be added to the number of weeks of payment. The permanent loss of use of a thumb, finger, toe, arm, hand, foot, leg, or eye shall be considered as the equivalent of the loss of such thumb, finger, toe, arm, hand, foot, leg or eye, and compensation for partial loss of use of said parts shall be allowed on a percentage basis. Twenty-five percent additional shall be allowed as compensation for the loss of use of the master hand or any member or members thereof. The loss of use on a percentage basis of the master hand or any member or members thereof, or the amputation of the master hand or any member or members thereof. The loss of any part of a phalange shall be considered equal to the loss of the entire phalange. If any employee dies from some independent cause, the right of any compensation payable under section 65-05-12 or this section, unpaid at the date of his death shall survive and pass to his dependent spouse, minor children, parents, or his estate and in that order named.

§ 6. Amendment.) Section 65-05-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

65-05-14. Scheduled Injuries—Permanent Partial Loss of Use of Member—Weekly Compensation Time—Compensation Payable.) If an injury causes the permanent partial loss of the use of a member or of the sight of an eye, the fund shall pay to the disabled employee a weekly compensation for that proportion of the number of weeks specified in the schedule

in section 65-05-13 for the loss of such member or of the sight of an eye, which the partial loss of the use thereof bears to the total loss of the use of such member or eye.

§ 7. Amendment.) Section 65-05-17 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

65-05-17. Weekly Compensation Allowances for Death Claims.) If death results from an injury under the conditions specified in section 65-05-16, the fund shall pay to the following persons, for the periods specified, a weekly compensation:

1. To the widow the amount of twenty-five dollars until her death or remarriage;
2. To the widower if he was wholly dependent upon the support of the deceased employee at the time of her death the amount of twenty-five dollars until his death or remarriage;
3. To each surviving child or issue of said deceased employee born within ten months after the employee's date of death the amount of seven dollars until such child dies, marries, or reaches the age of eighteen years, or if such child is incapable of self-support until it becomes capable of self-support. The bureau in its discretion may make such payment directly to such surviving child or issue of the deceased employee or to the surviving parent or guardian of such child or issue.

In addition to the awards herein the commissioners shall make an award in the sum of three hundred dollars to the widow of the deceased and one hundred dollars for each dependent child, and such additional award shall be charged to the bureau general fund.

§ 8. Amendment.) Section 65-05-26 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

65-05-26. Bureau Burial Expenses.) If death results from an injury within six years, the fund shall pay to the personal representatives of the deceased employee burial expenses not to exceed five hundred dollars.

Approved March 6, 1967.

CHAPTER 485

H. B. No. 747

(Allen, Haugland, Williamson, Unruh, Backes, Aas,
(Saugstad, Peterson(5), Dornacker, Sanstead)

TOTAL DISABILITY AND COMPENSATION

AN ACT

To amend and reenact section 65-05-09 of the North Dakota Century Code, relating to total disability; weekly and aggregate compensation.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **Amendment.**) Section 65-05-09 of the 1965 Supplement to the North Dakota Century Code 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 five dollars per week for each dependent child under the age of eighteen years living or unborn at the date of the injury or born during the period of disability of the disabled employee; 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 exceed the sum of seventy-five 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. The payments provided for in this section shall apply to all total disability claims which are the liability of the workmen's compensation bureau on and after July 1, 1967, without regard to the date of injury of the claimant.

Approved March 4, 1967.

CHAPTER 486

S. B. No. 198
(Longmire)

SETTLEMENTS BY WORKMEN'S COMPENSATION BUREAU

AN ACT

To amend and reenact section 65-05-25 of the North Dakota Century Code, relating to decisions of the workmen's compensation bureau in making lump sum settlements from the workmen's compensation fund.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **Amendment.**) Section 65-05-25 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

65-05-25. Lump Sum Settlement—Granted in Discretion of Bureau—How Computed.) In case of death, or of permanent total or permanent partial disability, the bureau, if it determines that it is for the best interest of the beneficiary, may pay to such beneficiary a lump sum equal to the present value of all future payments of compensation computed at two and one-half percent discount compounded annually. The probability of the beneficiary's death before the expiration of the period during which he is entitled to compensation shall be determined according to the American experience table of mortality. In case of compensation to the widow or widower of a deceased employee, the lump sum shall not exceed compensation for four hundred sixteen weeks and the probability of the happening of any other contingency affecting the amount or duration of the compensation shall be disregarded. If at the expiration of a period for which lump sum settlement was made hereunder, the beneficiary is still alive and has not remarried, the bureau, in its discretion, may again assume liability and resume pension payments. The bureau may also grant a partial lump sum settlement, based upon the same computations as the complete lump sum. Any decision of the bureau rendered under this section may be appealed to the district court as provided for in chapter 65-10, and the district court shall render its decision sustaining the decision of the bureau, reversing it, or remanding it back to the bureau with instructions.

Approved February 24, 1967.

CHAPTER 487

H. B. No. 859
(Dornacker)

CONFLICTS OF JURISDICTION

AN ACT

To create section 65-08-04 of the North Dakota Century Code, providing for agreements between states relating to conflicts of jurisdiction; to amend sections 65-08-01 and 65-08-02, relating to extraterritorial coverage, when and how furnished, and reciprocity in extraterritorial application of compensation Acts of various states provided.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **Amendment.**) Section 65-08-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

65-08-01. Extraterritorial Coverage — When and How Furnished.) Compensation shall be paid on account of injuries occurring outside this state or because of death due to an injury occurring outside of this state only when:

1. A North Dakota employee is a duly qualified peace officer of this state who received injury or was killed outside of this state in the course of his employment;
2. A North Dakota employee sustains an injury beyond the borders of this state in a service which is incidental to and is referable to the principal employment, the situs of which is within North Dakota;
3. A North Dakota employer and the bureau previously shall have contracted for insurance protection for employees while working outside of this state in the employment in which the injury occurred, which employment is incidental to or referable to the principal employment the localization and situs of which is not in North Dakota;
4. A North Dakota employer or his authorized agent has hired an employee, who is a resident of another state, for temporary employment the situs of which is located in another state, and where such temporary employment is necessary to the principal employment of such employer, provided that such other state recognizes the coverage under this title as a sole remedy of the employee against the employer for such injury or death.

§ 2. **Amendment.**) Section 65-08-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

65-08-02. Reciprocity in Extraterritorial Application of Compensation Acts of Various States Provided.) An employee who is a resident of another state and his employer from another state shall be exempted from the provisions of this title while such nonresident employee is temporarily within the state of North Dakota doing work for such nonresident employer:

1. If that employer has furnished to such employee workmen's compensation insurance under the Workmen's Compensation Act, or any similar act, of such other state, covering such employee's employment in North Dakota.
2. If the extraterritorial coverage furnished by this title and granted to employers resident in North Dakota covering employment of his employees while working in such other state is recognized by such other state;
3. If the employers and employees resident in North Dakota who are covered by the provisions of this title are likewise exempted from the application of the Workmen's Compensation Act, or any similar act, of such other state.

If the annual payroll expended within North Dakota by a nonresident employer exceeds one thousand dollars then the out-of-state employer shall no longer be considered as operating in North Dakota on a temporary basis, unless there is an agreement between the North Dakota workmen's compensation bureau and a similar agency of the other state where the employer is a resident, and such agreement provides otherwise.

The benefits under the Workmen's Compensation Act or similar laws of the other state, or other remedies under a like act or laws are the exclusive remedy against the employer for any resulting injury or death suffered by such employee while working for that employer in the state of North Dakota.

§ 3.) Section 65-08-04 of the North Dakota Century Code is hereby created and enacted to read as follows:

65-08-04. Agreements Between States Relating to Conflicts of Jurisdiction.) The workmen's compensation bureau, through the action of a majority of the commissioners, shall have authority to enter into agreements with the workmen's compensation agencies of other states relating to conflicts of

jurisdiction where the contract of employment is in one state and the injuries are received in the other state, or where there is a dispute as to the boundaries or jurisdiction of the states and when such agreements have been executed and made public by the respective state agencies, the rights of the employee hired in such other state and injured while temporarily employed in North Dakota, or hired in North Dakota and injured while temporarily employed in another state, or where the jurisdiction is otherwise uncertain, shall be determined pursuant to such agreements and confined to the jurisdiction provided in such agreements. Where such an agreement exists, any provisions of this chapter which conflict with the provisions of that agreement shall be superseded by the provisions of that agreement.

Approved March 4, 1967.

CHAPTER 488

S. B. No. 312

(Morgan, Meschke, Nething)

APPEALS FROM BUREAU DECISION

AN ACT

To amend and reenact section 65-10-01 and 65-10-03 of the North Dakota Century Code, relating to appeals from decision of bureau, and costs of appeal.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **Amendment.)** Section 65-10-01 of the 1965 Supplement to 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 or of a county agreed to by stipulation of the appellant and the bureau. 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 extra-territorial 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. Any appeal to the district court shall be heard on the record, transmitted from the bureau, and, in the discretion of the court, additional evidence may be presented pertaining to the questions of law involved in the appeal.

§ 2. **Amendment.)** Section 65-10-03 of the 1965 Supplement to 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 the Court.) The cost of the appeal, including an attorney's fee for the prevailing attorney, shall be set by the trial judge and taxed against the bureau. The bureau shall pay such attorney fee from the bureau general fund. The court shall set such attorney fee as follows:

1. Not to exceed twenty percent of the amount allowed on appeal to the date of judgment over and above the award given by the bureau;
2. Not to exceed twenty percent of the amount allowed on appeal to the date of judgment when no award was given by the bureau.

Such attorney fee shall cover and constitute the entire remuneration for the prevailing attorney for all services in connection with the appeal.

Approved February 24, 1967.

VETOED MEASURES

CHAPTER 489

S. B. No. 91
(Morgan)

PROHIBITION OF DAYLIGHT SAVING TIME

AN ACT

To amend and reenact section 40-01-20 of the North Dakota Century Code, relating to the prohibition of daylight saving time.

Veto

March 13, 1967

The Honorable Ben Meier
Secretary of State
State Capitol
Bismarck, North Dakota

Dear Mr. Meier:

Our nation's increasing population and the rapid changes in technology have brought about a new requirement of interdependence for all people and all activities in our nation. Business and industry is expanding rapidly. Communications by telephone, telegraph and radio have brought us to split second timing. Great mobility has been given our growing population by interstate highways, air travel and the conventional train and bus service. An increasing work force is finding more leisure time for travel and outdoor recreation.

All of these changes have cried out, with mounting urgency, for a standardization of time zones to replace the crazy-quilt local option time areas that have shackled this nation in recent years. Billions of dollars of lost production in wasted motion and man hours has been the cost of non-uniform time in our country.

Last year, Congress moved to lift this national burden of non-uniform time by passing the Uniform Time Act of 1966. This federal legislation permits states to exempt their entire state from uniform time by legislative action. Senate Bill 91 exempts North Dakota from provisions of the Uniform Time Act. Uniform time would simply have us move our clocks ahead one hour on the last Sunday in April and back one hour on the last Sunday in October. The practical effect of the Uniform Time Act is to provide, uniformly all over the nation, one

more hour of sunlight during the late spring, summer and early fall months.

I do not believe North Dakota can afford to be out of step with the rest of the nation. I do not believe our state should remain a small time island within a large time zone.

I believe it is in the best interest of our state to adopt Uniform Time for the following reasons:

- 1.) All common carriers in interstate traffic such as trains, railroads, buses and airlines must by federal law observe Uniform Time.
- 2.) Federal offices and services such as the Department of Agriculture, the Weather Bureau and the U.S. Post Offices must by federal law operate on Uniform Time.
- 3.) Communications such as telephone, radio, telegraph and television will operate nationwide on a schedule of Uniform Time.
- 4.) Uniform Time provides more hours of summer outdoor recreation for all people.
- 5.) The touring public would benefit by Uniform Time within time zones.
- 6.) Most marketing of North Dakota products is in an easterly direction into states which will be on Uniform Time. We would be handicapped if we were not in time conformity.
- 7.) Most other business and industries of service and supply to North Dakota are to the east of our state and will observe Uniform Time. Our businesses and industries would be seriously hampered if we were observing a different time.
- 8.) The North Dakota farmer needs Uniform Time so that his marketing or service center is observing the same time as his farm community.
- 9.) Prospective industry would look most favorably on a state which observes Uniform Time. We cannot afford to be backward in our quest for new business, new industry and new jobs for our people.
- 10.) The supplying of farm machinery parts on an emergency basis is done more and more from parts depots located in other states. A time lag of one hour in ordering could often mean a full day delay in receiving spare parts to a farmer.

- 11.) North Dakota's most heavily populated counties bordering Minnesota would be heavily disadvantaged if we did not observe Uniform Time. This can be illustrated best by pointing out the impossible situation which would exist in any town in North Dakota in which the citizens on one side of town observed one time while the citizens on the other side of town observed a time one hour earlier. This is precisely what would happen between eastern North Dakota and western Minnesota if one of our two states were to exempt itself from Uniform Time. The Red River is, in effect, the main street and people on either side of the river would suffer if they were not on the same time.

Hundreds of students live on one side of the river and go to school on the other. Thousands of men and women live on one side of the river and work on the other. Family hardships in scheduling such things as doctor or dentist appointments, meals, student lessons, care of youngsters by working mothers, and delivering children to school on one side of the river by parents working on the other side of the river would be rampant.

Farmers marketing products or buying supplies and repairs from businesses across the river would experience a constant frustration in time scheduling.

Over 32,000 public and parochial school students in 82 schools on both sides of the Red River are now served by Educational Television. If North Dakota were made a time island, this expanding education media would be severely damaged.

We should strongly support Uniform Time in this state and in the nation. It would be a step backward to exempt ourselves from the Uniform Time which will be observed in nearly every other state.

I have called many farmers, housewives, professional people and businessmen in all corners of the state to get their advice on the time issue. The overwhelming desire expressed was to be on a uniform time with the rest of the nation.

I am firmly convinced that after a fair trial of at least two years, there would be very few North Dakotans who would want to exempt our state from Uniform Time. I therefore veto Senate Bill 91.

Sincerely yours,
WILLIAM L. GUY
Governor

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Amendment.) Section 40-01-20 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-01-20. Daylight Saving Time Prohibited—Time Observed to Conform to Interstate Commerce Commission Regulations Governing Time Zones.) The state of North Dakota hereby exempts itself from the provisions of section 3 Public Law 89-387, relating to advancement of time. No city or other political subdivision within the state shall adopt daylight saving time. Every city and any other political subdivision within the state shall observe the standard of time necessary to conform to interstate commerce commission regulations governing standard time zones. On and after the effective date of this section, in all laws, statutes, orders, decrees, rules or regulations relating to the time of performance of any act by any officer or department of the state or of any county, city, township or district thereof, or relating to the time in which any rights shall accrue or terminate, or within which any act shall or shall not be performed by any person or corporation subject to the jurisdiction of this state, and in all public schools, and institutions of the state, or any county, city, township or district thereof, and in all contracts made or to be performed within this state and in all decrees, orders and judgments of the courts of this state it shall be understood that the time intended, referred to or used shall be the time necessary to conform to the interstate commerce commission's regulations governing standard time zones.

Disapproved March 14, 1967.

Filed March 14, 1967.

CHAPTER 490

S. B. No. 95

(Sands, Redlin, Ruemmele)

FOULING OF PUBLIC WATER

AN ACT

To amend and reenact section 61-01-14 of the 1965 Supplement to the North Dakota Century Code, relating to the fouling of public water.

Veto

February 27, 1967

The Honorable Charles Tighe
President of the North Dakota Senate
State Capitol
Bismarck, North Dakota

Dear Lt. Governor Tighe:

The pollution of air and water and the desecration of the original beauty of our countryside have become the hallmark of civilized man in the United States.

Already, it is too late to turn back the clock on some of the abuse we have caused to happen to this great country.

The dumping of sewage into streams is one of the most despicable practices of which our civilization has been guilty. In 1965, with an amendment to Section 61-01-14 of the North Dakota Century Code, communities were given two years to construct sewage treatment facilities just as cities which did not dump raw sewage into rivers had been constructing for years. Nearly all of our cities have moved rapidly to conform to this law.

I can see nothing to be gained by granting an extension of a practice which should have been outlawed years ago.

I therefore veto Senate Bill 95.

Sincerely yours,
WILLIAM L. GUY
Governor

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Amendment.) Section 61-01-14 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-01-14. Fouling Public Water—What Included.) The provisions of section 61-01-13 shall be construed to include:

1. Privies and privy vaults;
2. Any stable, shed, pen, yard, or corral wherein is kept any horse, bovine, sheep, or swine and located nearer than sixty feet from the top of the bank of such lake or stream; and
3. Any slaughterhouse, grave, graveyard, or cemetery located nearer than eighty feet from any lake or stream.

The provisions of this section shall not be construed to prevent any city within this state from discharging untreated sewage or waste into any river temporarily on an emergency basis, provided that such discharges are determined by the state department of health not to be detrimental to public health and safety. The provisions of this section shall not be construed to prevent any city within this state from discharging untreated sewage or waste into any river prior to July 1, 1969.

Disapproved February 27, 1967.

Filed March 7, 1967.

CHAPTER 491

S. B. No. 299

(Ruemmele, Redlin, Roen, Trenbeath, Berube)

STUDENTS ATTENDING SCHOOLS IN BORDERING STATES

AN ACT

To create and enact section 15-27-20 and to amend and reenact section 15-40-15 of the North Dakota Century Code, relating to students affected by attachment and reorganization of school districts who historically attended schools in bordering states and reciprocal agreements of the superintendent of public instruction with educational agencies of other states.

Veto

March 16, 1967

The Honorable Ben Meier
Secretary of State
State Capitol
Bismarck, North Dakota

Dear Mr. Meier:

Senate Bill 299 highlights one of the tragedies in primary and secondary education which occur occasionally in our quest

for better schools for North Dakota's students. Senate Bill 299 in effect would prevent the continuation of students going across our state line to an accredited high school in South Dakota and forces them to go to a non-accredited high school in North Dakota.

While this bill was written in an attempt to help one specific non-accredited high school in North Dakota, its effects would be felt on all three of our state's borders where we have children going to schools in adjoining states.

We must judge school legislation on the basis of what it does in the way of improving the education for our North Dakota children. Oftentimes legislation which enhances the opportunities for some children at the same time reduces the education opportunities for other children. Senate Bill 299 is that kind of legislation.

I have talked with educators and some legislators who served on the legislative education committees about this bill. They readily admit some grave misgivings about the fairness and the effect of this bill on the quality of education and hardship to students in some school districts along our state boundary. I have held this bill until the last because I wanted to get as much background as to its effect as possible.

Because this bill raises more problems than it solves for school districts along our state borders, I have decided I must veto Senate Bill 299.

Sincerely yours,
WILLIAM L. GUY
Governor

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Amendment.) Section 15-40-15 of the 1965 Supplement to the North Dakota Century Code 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 the attendance of elementary and high school pupils in a bordering state and payments from the county equalization fund for high school and elementary students attending public schools in a bordering state and 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.

§ 2.) Section 15-27-20 of the North Dakota Century Code is hereby created and enacted to read as follows:

15-27-20. Certain Students Attending Schools in Border States Not Affected by Reorganization or Annexation.) Students from areas of any former school district historically attending school because of proximity or terrain in a bordering state and residing in a district annexed to or reorganized with another district or districts within North Dakota shall be permitted to continue attending school in a district in a bordering state. Any parent or the guardian of a child who is denied the right to attend a school in a school district in a bordering state by the school board of the district may appeal such decision to the county committee, consisting of the county superintendent of schools, county judge, and state's attorney, and the decision of such county committee may be appealed by the school board or such parent or guardian of the child to the state board of public school education, whose decision shall be final. For the purposes of this section "historically" shall mean a previous attendance by students of any such area for a period of seven years or more prior to the annexation or reorganization of such district.

Disapproved March 16, 1967.

Filed March 16, 1967.

CHAPTER 492

S. B. No. 315
(Holand, Robinson)

PUBLICATION OF INDUSTRIAL COMMISSION NOTICES

AN ACT

To amend and reenact subsection 4 of section 38-08-11 of the North Dakota Century Code, relating to publication of notices by the industrial commission.

Veto

March 6, 1967

The Honorable Ben Meier
Secretary of State
State Capitol
Bismarck, North Dakota

Dear Mr. Meier:

A 1953 law requires that any notice given in crude oil matters by the Industrial Commission "shall be given at the election of the Commission either by personal service or by **one publication in a newspaper of general circulation in the state capital** and in a newspaper of general circulation in the county where the land affected is situated."

For 14 years, the Bismarck Tribune has enjoyed a monopoly on publishing Industrial Commission notices as a "newspaper of general circulation in the state capital."

In the fall of 1966, the Attorney General ruled that there were several newspapers that could qualify to run Industrial Commission notices as newspapers having "general circulation in the state capital."

Now, I find an amazing piece of legislation in the form of Senate Bill 315, which would grant the Bismarck Tribune a lawful monopoly to publish Industrial Commission notices to the exclusion of any other newspapers, even though they are newspapers of general circulation in the State Capital.

It is my firm belief that the contract to publish Industrial Commission notices should be alternated annually among the several newspapers that now legally qualify. This kind of legislation of such narrow application as to benefit only one newspaper to the exclusion of all others is especially objection-

able to me. It is not only unnecessary legislation, but is grossly unfair legislation.

I therefore veto Senate Bill 315.

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 38-08-11 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. Any notice required by this chapter shall be given at the election of the commission either by personal service or by one publication in the official county newspaper of Burleigh county and in a newspaper of general circulation in the county where the land affected, or some part thereof, is situated. The notice shall issue in the name of the state, shall be signed by the chairman or secretary of the commission, and shall specify the style and number of the proceeding, the time and place of the hearing, and shall briefly state the purpose of the proceeding. Should the commission elect to give notice by personal service, such service may be made by any officer authorized to serve process, or by an agent of the commission, in the same manner as is provided by law for the service of summons in civil actions in the courts of the state. Proof of the service by such agent shall be by the affidavit of the person making personal service.

Disapproved March 6, 1967.

Filed March 6, 1967.

CHAPTER 493

S. B. No. 386

(Hernett, Roen, Chesrown, Stroup, Luick)

BANK INTEREST RATES

AN ACT

To amend and reenact section 47-14-09 of the North Dakota Century Code, relating to maximum interest rate on loans.

Veto

March 14, 1967

The Honorable Ben Meier
Secretary of State
State Capitol
Bismarck, North Dakota

Dear Mr. Meier:

During the 1966 election campaign, Republican candidates for Congress and the State Legislature were loud in deploring the high rates of interest that existed at that time. Tight money, inflation and high rates of interest seemed to be the theme around which the Republican Party had built its campaign.

If I may interpret the election results, it would appear that the Republican Party was very effective in holding the Democratic National Administration responsible for high interest rates. I am therefore amazed that the 1967 Legislature, completely dominated by the same Republicans who only three months before were deploring high interest rates, would now take action to raise interest rates even higher.

But we should not let partisan politics decide an issue of such far-reaching importance to borrowers and lenders as is the proposed 14% increase in the maximum allowable interest rate.

We need to ask: Who needs this interest rate increase? Does the state need it? The answer is no. If interest rates climb, the willingness of borrowers to invest money in productive expansion diminishes and the state suffers economically. Our agricultural production is this state's heaviest user of borrowed money. To increase the cost of credit to our basic industry would be adding an unnecessary cost to a cost-price squeeze situation that is already so critical it is driving farmers from the land.

To increase the permissible rate of interest to the non-farm economy will slow economic expansion and diminish the chances of creating new jobs for North Dakotans. To increase the permissible rate of interest from 7% to 8% will cause a proportionate increase in all interest rate contracts that were heretofore pegged to the 7% maximum.

Do banks need this increase in the permissible rate of interest from 7% to 8%. All of the evidence indicates that most of them do not. Most banks in this state are not involved in a cost-price squeeze. Furthermore, their tax structure is very reasonable. They are taxed at a rate of 5% of their net profits. This is about one-half of the tax imposed by our neighboring state of Minnesota.

Banks pay no sales tax; they pay no personal property tax; and their bank dividends are exempt from state income tax to their stockholders. The 5% tax on net profits that banks pay is approximately the rate that North Dakota corporations pay in state corporate income taxes. This low tax is in lieu of local personal property taxes and in effect banks pay no taxes to the state, nor are bank stockholders taxed by the state on their dividends. Banks, therefore, are in a more favorable tax position than are North Dakota corporations or North Dakota cooperatives.

No, it cannot be said that increased taxes require increased maximum rates of permissible bank interest.

Banks pay interest on their deposits at a rate in relationship to the interest rate the bank charges on loans. It has been said that if the loan interest rate is not raised to 8%, bank deposits will flow out of North Dakota and into those investments and banks in other states which have a higher permissible loan rate of interest. If this were taking place, and North Dakota banks were actually losing deposits, their ratio of loans to deposits would be very high, reflecting this outflow of deposits. Such is not the case. The average ratio of loans to deposits for North Dakota banks in 1966 was 48% compared to over 60% for the nation. There is no evidence that an outflow of money is causing a shortage of money to lend.

It is significant that Senate Bill 386 was passed in a period when the prime rate of interest in the eastern financial centers is receding, indicating a gradual loosening in the tight money situation.

Are average bank profits being held down by the 7% maximum permissible interest in North Dakota? No, they are not. The 1966 report of the State Bank Examiner of our 124

state chartered banks reveals that these banks averaged, after all expenses, salaries and all taxes, a return of 10.69% on their investment.

This was an increase of 28.58% in 1966 over 1965. In most businesses, a return of 10.69% would be considered quite good. Because of the increased volume and size of the 42 national banks in North Dakota, it can be assumed that their profit and salary position equals or exceeds that of the state banks.

It is interesting to note that of the 166 banks in North Dakota, 33 are owned or controlled by out-of-state corporations.

I think it is a serious situation when the Legislature, in which at least 23 members are listed as bank officials or directors, should approve a special interest bill such as this increase in the permissible rate of interest. This bill would be adverse to the North Dakota economy. It would work a hardship on farmers, businessmen and young homeowners. It would cut down on the investment necessary for the creation of new jobs and would cause all other forms of credit to follow in the wake of this increase from 7% to 8%.

This increase is not warranted by the records of high profits and adequate salaries prevalent in North Dakota banking circles today.

I therefore veto Senate Bill 386.

Sincerely yours,
WILLIAM L. GUY
Governor

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Amendment.) Section 47-14-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

47-14-09. Usury — Definition — Maximum Contract Rate — Prohibition.) Except as otherwise provided by the laws of this state, no person, copartnership, association, or corporation, either directly or indirectly, shall take or receive, or agree to take or receive, in money, goods, or things in action, or in any other way, any greater sum or greater value for the loan or forbearance of money, goods, or things in action than eight percent per annum, and in the computation of interest the same shall not be compounded. No contract shall provide for the payment of interest on interest overdue, but this section shall

not apply to a contract to pay interest at a lawful rate on interest that is overdue at the time such contract is made. Any violation of this section shall be deemed usury.

Disapproved March 14, 1967.

Filed March 15, 1967.

CHAPTER 494

H. B. No. 591
(Bier, Giffey)

DISTRIBUTION OF MOTOR VEHICLE USE TAX

AN ACT

To amend and reenact section 39-04-39.1 of the 1965 Supplement to the North Dakota Century Code, relating to the distribution of motor vehicle use tax to local highway funds.

Veto

February 24, 1967

The Honorable Gordon S. Aamoth
Speaker of the House of Representatives
State Capitol
Bismarck, North Dakota

Dear Speaker Aamoth:

House Bill 591 was introduced at the request of the State Treasurer to clarify confusing language in existing law relating to the distribution of motor vehicle use taxes to counties and the State General Fund. I emphasize that it was designed to clarify problems relating to motor vehicle use taxes, but not to the distribution of motor vehicle registration funds. It merely amended Section 39-04-39 of the North Dakota Century Code to agree with an official interpretation of this Section by the Attorney General.

House Bill 591 would be desirable if House Bill 580 were not also in the legislative process. House Bill 580 not only takes care of the problem of distribution of motor vehicle use taxes, but it goes even further and solves problems involving the distribution of motor vehicle registration funds.

If House Bill 580 is passed and becomes law, House Bill 591 would be unnecessary. If House Bill 580 does not pass and become law, the State Treasurer can continue to make motor vehicle use tax distributions according to the Attorney General's ruling, just as he has done in the past. A future legis-

lative session could then resolve any remaining problems in the distribution of motor vehicle use taxes to counties and the State General Fund.

In the interest of maintaining clarity in our state law, I veto House Bill 591.

Sincerely yours,
WILLIAM L. GUY
Governor

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Amendment.) Section 39-04-39.1 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-04-39.1. Distribution to Local Highway Funds.) Prior to any disbursement out of the motor vehicle registration fund, under subsections 1 and 2 of section 39-04-39, a sum equal to the amount of motor vehicle use tax deposited in the motor vehicle registration fund shall be distributed by the state treasurer to the county highway funds and special municipal highway funds of each county in such manner as prescribed in subsection 3 of section 39-04-39.

Disapproved February 24, 1967.

Filed March 7, 1967.

CHAPTER 495

H. B. No. 604

(Johnson(23), Giffey, Sandness)

FEDERAL FUNDS FOR VOCATIONAL EDUCATION

AN ACT

To amend and reenact section 15-20-01 of the North Dakota Century Code, relating to federal funds for vocational education.

Veto

March 7, 1967

The Honorable Ben Meier
Secretary of State
State Capitol
Bismarck, North Dakota

Dear Mr. Meier:

The great increase in the federal government grant funds in recent years has made the state-federal relationship very complex. The Legislature has discovered that federal grants are now going directly to an ever-increasing number of state agencies and local units of government.

It has become almost impossible for the State Legislature to carry out its constitutional obligation to appropriate each biennium all state expenditures including federal grant funds obtained by state agencies. The Executive Office of the Budget has attempted to remedy this situation by listing all anticipated federal grants in the Executive Budget presented to each session of the Legislature. The Legislature can then approve or disapprove the expenditure of these anticipated federal grant funds.

Some federal grant programs might obligate future Legislatures for state matching funds. This could become a serious matter for Legislatures in the years ahead.

The 40th Legislative Assembly has moved to improve the handling of federal grant funds in its House Bill 553, which has been signed into law. This law gives the Emergency Commission the authority to approve federal funds for new programs during the biennium even though these funds were not anticipated and were not appropriated by the Legislative Assembly. This new law will bring about an orderly processing of funds for new or expanded programs.

After the passage of House Bill 553, House Bill 604 was passed, which gives the State Board of Vocational Education

of North Dakota the authority to accept all federal grant funds for programs directly or indirectly contributing to the promotion and expansion of vocational education.

Since this authority which is granted to the State Board of Vocational Education in House Bill 604 was previously granted to the State Emergency Commission in House Bill 553, a conflict of legislative intent exists.

Because House Bill 604 is a departure from improved centralized state administration of all new federal grant programs, and because all of the needs of federal grant programs in vocational education can be served under the new provisions of House Bill 553, this additional legislation is unnecessary and would create confusion if enacted into law.

I emphasize that a veto of House Bill 604 does not jeopardize funding of new or existing vocational education programs. I will continue to seek federal financial aid to vocational education.

However, in the interests of maintaining clarity of legislative intent and in order to improve and coordinate the approval of new and expanded federal grant programs, I veto House Bill 604.

Sincerely yours,
WILLIAM L. GUY
Governor

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Amendment.) Section 15-20-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-20-01. Vocational Education—Acceptance of Benefits of Federal Acts.) The state board of vocational education of the state of North Dakota may accept all of the provisions and benefits of all federal grant programs directly or indirectly contributing to the promotion and expansion of vocational education.

Disapproved March 7, 1967.

Filed March 7, 1967.

CHAPTER 496

H. B. No. 655
(Halcrow, Connolly)

CONFERENCES OF COMMISSIONER OF LABOR

AN ACT

To amend and reenact sections 34-06-09, 34-06-11, and 34-06-12 of the North Dakota Century Code, relating to conferences to consider investigation by the commissioner of labor.

Veto

March 15, 1967

The Honorable Ben Meier
Secretary of State
State Capitol
Bismarck, North Dakota

Dear Mr. Meier:

For several decades, the Commissioner of Agriculture and Labor has had the authority under state law to call a conference of equal numbers of representatives of employers, employees and the public to report on unreasonably long hours, unhealthful working conditions and inadequate wages for women or children in any occupation. In 1965, this law was broadened to include all employees whether man, woman or child. Only a few such conferences have ever been called, though the law was made much more useful in 1965 than it was formerly.

In 1965, the legislature established the elective office of Commissioner of Labor to be filled on January 1, 1967. House Bill 655 seeks to limit the administrative flexibility of the newly elected Commissioner of Labor almost before he takes office. House Bill 655 forbids the Commissioner of Labor to use his own discretion in selecting a conference membership to report on hours, working conditions and wages in any given occupation.

This bill forces the Commissioner to select conference members from the three population strata of rural, medium size towns and cities. The Commissioner may do this under present law, but is not required to do so. House Bill 655 arbitrarily requires the Commissioner to appoint representatives of employers, employees and the public from cities even though the occupation being reported on is predominantly rural, and vice versa.

We DO need conferences to report on working conditions and wages in North Dakota. But the law should not give the new Commissioner of Labor the authority and responsibility and, at the same time, limit his power of discretion and determination as to the best procedure.

House Bill 655 does not add anything of a constructive nature to state law and it would weaken the administration of the new Commissioner of Labor.

I therefore veto House Bill 655.

Sincerely yours,
WILLIAM L. GUY
Governor

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **Amendment.**) Section 34-06-09 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

34-06-09. Conference to Consider Investigation by Commissioner—Members, Quorum, Report.) If, after he has investigated the matter, the commissioner is of the opinion that any substantial number of employees in any occupation are working for unreasonably long hours, are working under surroundings or conditions detrimental to their health or morals, or are receiving wages inadequate to supply them with the necessary cost of living and to maintain them in good health he may call a conference for the purpose of considering and reporting on such subject as may be submitted to it. The conference shall be composed of three representatives of the employers in said occupation, three representatives of the employees in said occupation, and three disinterested persons representing the public, with one of each of the aforementioned employers, employees, and disinterested persons to be chosen from the rural area or cities of under seven hundred fifty population, one each from cities of over seven hundred fifty but under twenty-five hundred population, and one each from cities of over twenty-five hundred population, and of the commissioner or his representative. The commissioner shall name and appoint all the members of such conference and shall designate the chairman thereof. Two-thirds of the members of any such conference shall constitute a quorum. The commissioner shall present to such conference all information and evidence in his possession or under the control of his department which relates to the subject of the inquiry and shall cause to be brought before

such conference any witness whose testimony he deems material thereto. After completing its consideration of any inquiry submitted to it by the commissioner, such conference shall make and transmit to the commissioner a report containing its findings and recommendations on the subject.

§ 2. Amendment.) Section 34-06-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

34-06-11. Consideration of Report by Commissioner—Hearing Upon Approval.) Upon the receipt of any report from any conference held as provided in section 34-06-09, the commissioner shall consider and review the recommendations contained in the report, and he may approve or disapprove any of such recommendations. The commissioner may resubmit to the same conference or to any new conference any subject covered by any recommendations which he has disapproved. If the commissioner approves any recommendations contained in any such report, he shall publish a notice in at least two newspapers of general circulation in this state at least once each week for four successive weeks stating that a public hearing will be had thereon and specifying the date and place thereof and that all persons in favor of or opposed to the recommendations may appear and be heard. The commissioner may, in his discretion, make use of other news media in order to ensure that proper notice of the public hearing is adequately disseminated to the public.

§ 3. Amendment.) Section 34-06-12 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

34-06-12. Order Issued by Commissioner—Effective Date—Posting.) After the hearing provided for in section 34-06-11 has been held, the commissioner may make and render such order as may be necessary and proper to adopt such recommendations and to carry the same into effect and to require all employers in the occupation affected thereby to observe and comply with such recommendations and order. The order made by the commissioner shall become effective on the sixtieth day following its rendition. After the order has become effective, no employer shall violate or disregard the terms or provisions thereof or employ any employee in any occupation covered thereby for longer hours or under different conditions or at a lower wage scale than are authorized therein. All effective orders shall be reviewed annually. A copy of such order shall be mailed by the commissioner to every employer affected thereby, and each such employer shall keep a copy of the order posted in a conspicuous place in each room of his

establishment in which employees work. Included with such copy shall be an explanation or summary of the order written in such a manner as to be understood by the layman. No order of the commissioner shall permit the employment of any employee for more hours per day or week than the maximum fixed by this chapter.

Disapproved March 14, 1967.

Filed March 15, 1967.

CHAPTER 497

H. B. No. 727

(Brown, Johnson(23), Strinden, Kingsbury, Erickson(26),
(Seibel, Mathiason)

EXEMPTION OF ITEMS OF PERSONAL PROPERTY

AN ACT

To create and enact subsection 23 of section 57-02-08 of the North Dakota Century Code, relating to items of personal property exempt from taxation, and to amend and reenact section 57-02-04 of the North Dakota Century Code, relating to the definition of real property, allocating moneys to counties and their political subdivisions, making an appropriation, providing an effective date, and to repeal sections 18-03-09, and 37-01-27, subsections 9, 10, and 11 of section 57-02-05 and section 57-15-23 of the North Dakota Century Code, relating to the definition of personal property and imposition of the per capita school tax and exemptions thereto.

Veto

March 2, 1967

The Honorable Gordon S. Aamoth
Speaker of the House of Representatives
State Capitol
Bismarck, North Dakota

Dear Mr. Speaker:

Two years ago, this state's personal property tax on inventories, machinery, equipment, livestock and household goods was completely wiped from the books. Mr. McCarney, with help from other quarters, succeeded in bringing the personal property tax back on the books through the referral of the tax program passed in the last legislative session.

Now, in this session, House Bill 727 seeks partial removal of personal property in the form of exemption of household goods, musical instruments, miscellaneous farm machinery

and young calves. This bill was very hastily drawn and floated to the surface late in this session.

I must fault this bill from two standpoints:

- 1.) It is philosophically wrong and detrimental to our state.
- 2.) It is so incompletely thought out that glaring deficiencies exist, making it mechanically unacceptable to administer.

To those who say we cannot do away with the personal property tax completely, I say that we did do away with the personal property tax completely in the 1965 session. We could do it in this session if there were the desire.

The next most acceptable alternative would be to do away with the personal property tax on inventories, machinery, equipment and livestock. This is the portion of the personal property tax which weighs so heavily on our economy. This is the portion that retards economic growth in our state. This is the portion of the personal property tax which discourages investment in new enterprises and in new jobs for North Dakotans. This is the one disadvantage which the North Dakota economy has which could be treated by legislation for total personal property tax removal.

This is the most vicious, unfair part of the personal property tax, for it taxes a man for having to own personal property in order to make a living. It levies a tax on a certain class of people before any income is made. In many instances, the personal property tax on inventories, equipment, machinery and livestock eats up a substantial portion of all of the net profit that could have been made in a given year.

The test for paying taxes should be the ability to pay taxes and the services rendered for those taxes. The man who can earn his income without owning personal property should not have a position of tax advantage over the man who must own personal property to earn that living.

A second alternative to what you propose in House Bill 727 would be to take a percentage reduction in all classes of personal property.

The alternative that you have chosen to eliminate personal property taxes on household goods, miscellaneous farm machinery and young calves is not acceptable to me. If there is any fairness in the personal property tax, it would probably be in that part of the tax on household goods which you propose to eliminate because this tax has some relationship, though not a perfect relationship, to the taxpayer's ability to pay taxes.

I believe if you eliminate the personal property tax on household goods, you will eliminate most of the support for total personal property tax elimination and the most unfair and undesirable part of the tax will remain forever.

I must fault this hastily drawn bill for not having an adequate mechanism for replacing to local political subdivisions the funds that would be lost. The farm-back provision favors those counties which are assessing property above the state average at present and penalizes those counties which are assessing property at less than the state average. The farm-back formula falls short by one and one-half million dollars per year of replacing the revenue lost by the elimination of this portion of the personal property tax. The failure to provide sufficient replacement funds and the inequity in the valuations between counties on which farmed-back funds would be based could not help but throw some severe strains causing higher taxes on real estate and that large and important part of personal property which you have not chosen to repeal.

It is rather pathetic that this legislature should be desperately casting around for a makeshift personal property tax repeal program along with a program for replacing personal property tax revenues that would be lost to the political subdivisions.

House Bill 728 sets up a commission to study the personal property tax in the coming biennium. Quite often, a study proposal is a thinly veiled excuse for doing nothing. How much study has already gone into personal property tax repeal without noticeable results?

I can supply you with copies of a 1920 report of the North Dakota Tax Commissioner who adequately demonstrated 47 years ago that the personal property tax should be eliminated. The Tax Commissioner in 1920 in his report refers to a 1910 resolution of the National Tax Association and a 1916 report of the Wisconsin Tax Commission concluding that personal property taxes should be eliminated.

The North Dakota Legislative Research Committee in 1957, in 1959, in 1961, in 1964, in 1965, and in 1967 have published reports containing a substantial amount of hand-wringing about the need for personal property tax repeal and reform. The 1965 LRC recommended a resolution directing the Legislative Research Committee to continue to study the subject. The 1965 legislative session did direct such a study, but the study didn't amount to much.

A 1967 report states: "The committee was directed to study and review problems of replacement of personal property tax

revenues. Although the committee did not find the opportunity to study replacement revenues in detail, it did study etc., etc." (a subject known as the Canadian business tax).

I hope that House Bill 728 will establish a committee which is interested in complete elimination of the personal property tax rather than a study to find out all of the reasons why the personal property tax should not or cannot be repealed.

I think there is as much danger in this committee's distorting its mission in order to prove that personal property taxes cannot be eliminated as there is that they will accept the mission to try to find replacement revenue for the elimination of personal property taxes. However, since I can see no reason to challenge the effectiveness of such a committee without knowing its composition, I will sign into law House Bill 728.

However, since House Bill 727 is not in the best interests of the taxpayers of North Dakota, falls so short of the mark, and contains such serious mechanical weaknesses, I hereby disapprove it by veto.

Sincerely yours,
WILLIAM L. GUY
Governor

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **Amendment.)** Section 57-02-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-02-04. "Real Property" Defined.) Real property, for the purpose of taxation, includes the land itself, whether laid out in town lots or otherwise, and, except as otherwise provided, all buildings, structures, and improvements except plowing and trees, and all rights and privileges thereto belonging or in any-wise appertaining, and all mines, minerals, and quarries in and under the same and shall expressly include all improvements made by persons upon lands held by them under the laws of the United States, all such improvements on land the title to which still is vested in any railroad company and which is not used exclusively for railroad purposes, and improvements to land belonging to any other corporation whose property is not subject to the same mode and rule of taxation as other property.

§ 2.) Subsection 23 of section 57-02-08 of the North Dakota Century Code is hereby created and enacted to read as follows:

23. All household goods, clothing, and other personal belongings; musical instruments including but not limited to pianos, radios, television sets, and record players; and all calves under one year of age and all farm machinery, tools, and equipment except tractors, combines, beet harvesters, and potato harvesters; but the provisions of this subsection shall not exempt any such items when included as a part of stock of goods or merchandise held for resale, nor shall any items exempted from taxation under this subsection be exempt from assessment or taxes levied during the year 1967 and collected in the year 1968.

§ 3. Distribution by Tax Commissioner to Counties.) The moneys appropriated by this Act shall be distributed by the state tax commissioner on or before March 1, 1969, and on or before March first of each year thereafter the tax commissioner shall distribute to each county in this state the pro rata share of the moneys appropriated by this Act in the proportion that the total assessed real and personal property in a county for the previous calendar year bears to the total assessed real and personal property in the state for the previous calendar year. Within each county the county treasurer shall allocate and distribute the amount received from the state tax commissioner to the county, cities, villages, school districts, and organized and unorganized townships, a pro rata share of such moneys in the proportion that each such political subdivision's total amount of real and personal property taxes levied in the previous calendar year, measured in dollar amounts, bears to the total amount of real and personal property taxes levied in the county in the previous calendar year, measured in dollar amounts. The revenues received in accordance with this section by the political subdivisions shall be replacement funds for personal property tax revenues which would normally have been received if personal property exempted under the provisions of subsection 23 of section 57-02-08 had been subject to ad valorem personal property taxes, and shall first be apportioned to the sinking fund for any outstanding bonded indebtedness in that proportion that the mill levy for such sinking fund bears to the total mill levy levied in the previous calendar year by such political subdivision, and the balance shall be placed in the general fund of such political subdivision.

§ 4. Appropriation.) There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of \$3,500,000.00 or so much thereof as may be necessary, to the state tax commissioner for the purpose of remitting funds to counties of this state and their political subdivisions as provided by this Act, for the biennium beginning July 1, 1967, and ending June 30, 1969.

§ 5. **Provisions of Act to Remain in Effect—When.)** The provisions of this Act shall become effective and remain in effect only if and so long as the provisions of Senate Bill Number 403 as approved by the Fortieth Legislative Assembly become effective or remain in effect. If the provisions of Senate Bill Number 403 as approved by the Fortieth Legislative Assembly should be suspended or terminated or should not go into effect, the provisions of this Act shall likewise be suspended or terminated or shall not go into effect.

§ 6. **Repeal.)** Sections 18-03-09 and 37-01-27, subsections 9, 10, and 11 of section 57-02-05, and section 57-15-23 of the North Dakota Century Code are hereby repealed.

Disapproved March 2, 1967.

Filed March 7, 1967.

CHAPTER 498

H. B. No. 780

(Aas)

TAX RETURNS

AN ACT

To provide a method of determining amount of tax liability when mathematical errors are made on returns filed with the tax commissioner.

Veto

March 6, 1967

The Honorable Ben Meier
Secretary of State
State Capitol
Bismarck, North Dakota

Dear Mr. Meier:

The use of the electronic computer has created the problem of how to deal with the thousands of mathematical errors which are disclosed in sales tax reports and income returns.

House Bill 780 requires the North Dakota Tax Department to notify taxpayers of mathematical errors by certified mail. It is estimated that the certified mail would result in at least \$15,000 in additional postage each biennium, plus the additional clerical expense of attaching return receipts and maintaining the necessary records.

The North Dakota Tax Department does use certified mail, but only in those few cases in which a taxpayer does not respond to the regular mail notice. Therefore, in order to save the state a substantial amount of postage expense, I veto House Bill 780.

Sincerely yours,
WILLIAM L. GUY
Governor

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Mathematical Error on Tax Return—Determination of Amount of Tax Due.) In the event that the amount of any tax that is administered by the tax commissioner is understated on a return due to a mathematical error, the tax commissioner shall give notice in writing with return receipt required to the person filing the return that an amount of tax in excess of that shown on the return is due. Such notice shall fix the additional amount of tax finally and irrevocably unless the person within thirty days after the giving of the notice of error shall apply to the tax commissioner for a hearing regarding the matter.

Disapproved March 6, 1967.

Filed March 6, 1967.

CHAPTER 499

H. B. No. 791

(Aas)

MEETING AND DUTIES OF GAME AND FISH
ADVISORY BOARD

AN ACT

To amend and reenact section 20-02-31 of the North Dakota Century Code, relating to meetings and duties of the game and fish advisory board.

Veto

March 14, 1967

The Honorable Ben Meier
Secretary of State
State Capitol
Bismarck, North Dakota

Dear Mr. Meier:

House Bill 791 takes from the governor the authority to issue State Game and Fish Department proclamations on hunting, fishing and trapping seasons and regulations. This bill gives the authority now held by the governor to a State Game and Fish Department Advisory Committee composed of appointed laymen.

This dilution of executive responsibility to non-governmental persons would separate accountability from the governor and his administration. It would leave the responsibility of state administration with the governor, but it would take away his authority to act in the important area of hunting, fishing and trapping regulation.

House Bill 791 places the judgment of a lay board of advisers in a position superior to the professional judgment of the Game and Fish Department personnel, who are directly under the governor's office.

House Bill 791 would create a mechanical problem in getting approval of this far-flung advisory board before a proclamation could be signed.

Several years ago, the legislature made progress by establishing a layman advisory board to the State Game and Fish Department. However, House Bill 791, which makes this advisory board an administration board, is a step backward in

our constant effort to make a more efficient, effective and responsible state government.

I therefore veto House Bill 791.

Sincerely yours,
WILLIAM L. GUY
Governor

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **Amendment.)** Section 20-02-31 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

20-02-31. Meetings and Duties.) Each member of the game and fish advisory board shall hold a public meeting at least twice each fiscal year, one meeting to be held in March and one meeting to be held in July, in his respective district to make their presentations and to determine the needs and the opinions of those interested in such activities. 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. No proclamation shall be submitted to the governor by the department unless the contents of the proclamation have first been approved by a majority of a quorum of the advisory board. The advisory board 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.

Disapproved March 14, 1967.

Filed March 14, 1967.

CHAPTER 500

H. B. No. 862
(Moquist, Halcrow, Hensrud)

MOTOR VEHICLE SPEED LIMITATIONS

AN ACT

To amend and reenact section 39-09-02 of the North Dakota Century Code, relating to motor vehicle speed limitations, and providing a termination date.

Veto

March 13, 1967

The Honorable Ben Meier
Secretary of State
State Capitol
Bismarck, North Dakota

Dear Mr. Meier:

House Bill 862 provides unlimited speed on our interstate highways.

The North Dakota fatality toll from highway accidents in 1966 set a new and appalling record. Does this bill contribute to greater highway safety? No, it does not. If this bill were allowed to become law, would it be an enforceable statute? No, it would not be.

All evidence indicates that unlimited speeds on our interstate would cause a rising accident rate and death toll. The Superintendent of the North Dakota Highway Patrol states that legal unlimited speed on the interstate highways would be an unenforceable statute.

We are told that highway engineering has provided safer highways today than ever before. Yet, nowhere in the United States has an interstate highway been engineered for unlimited speeds. Our interstate highways are not the Salt Flats of Utah or Daytona Beach, nor should they be regarded as such.

We are told that automobiles are safer than ever before. Yet, a March 11, 1967 news release stated that 670,000 cars, trucks and buses, most of which are 1967 models, have been recalled by the manufacturer to check for a wide variety of possible safety defects involving brake parts, steering shaft alignment and other potentially dangerous faults. Obviously, if 1967 models can have these possible defects, then we can ask how much more critical the possible defects are which exist in older model automobiles and worn tires.

It is said that the driver of today is better trained and more experienced than ever before. This may be true, but we find a wide variation in driver age, experience, reflexes, judgment, sight, physical condition, emotional stability and mental capacity. It is possible that a small percentage of our drivers on the road are capable of driving at unlimited speeds. It is also possible that some of the vehicles on the highway in the hands of that small percentage of capable drivers are also safe at unlimited speeds. It is also possible that the condition of traffic, the weather, and the engineering of the interstate system make possible certain stretches of highway which could handle unlimited speed. However, the likelihood of combining the capable driver with the safe vehicle under ideal highway and weather conditions diminishes drastically the time and circumstances in which unlimited speed could be tolerated on our interstate system.

In 1955, there were eight states that still had the antiquated law of unlimited speed on their highways. Today, only Montana and Nevada have retained such a law. It is interesting to note that per 100,000 miles of travel, Montana's Highway death toll rate has exceeded that of North Dakota in eight out of the last ten years.

A study of the Kansas and Oklahoma turnpikes indicates that a legal speed difference of only 10 miles per hour, 70 miles per hour versus 80 miles per hour, produces twice as many accidents and more than twice as many deaths on a per mileage basis. These two highways were built to the same design standards and pass through the same type of terrain in the same general weather belt.

A safety study by the Roswell Park Memorial Institute of Buffalo, New York, has found that a motorist who achieves a 13% savings in time by increased speed on a low density highway, increases his chances of getting killed by at least 400%.

The Federal Highway Safety Act of 1966 has established some minimum rules of the road in its Uniform Vehicle Code. These will be the standards with which states will be expected to comply.

North Dakota at present has in our state law the Uniform Vehicle Code provisions on speed. House Bill 862 does not comply with the Uniform Vehicle Code and is in fact a radical departure from the provisions of the Uniform Vehicle Code.

I have consulted many Highway Patrolmen and experts in highway safety in this matter. Highway Patrolmen point out that this law would be unenforceable and any charges they might place for speeding would be a matter of the driver's word against the Patrolman's word. Patrolmen anticipate that

thousands of vehicles which are mechanically unfit, or have unsafe tires, or are driven by drivers of questionable ability and judgment would suddenly be beyond the reach of any speeding restrictions. The most prevalent accident on the interstate, is the rear-end collision between moving vehicles. The type of accident would become much more prevalent and severe with unlimited speed.

The Highway Department is presently studying the possibility of raising the interstate speed limit from 70 to 75. But to move from 70 miles per hour to any speed that an automobile can achieve is not consistent with our need to cut down accidents and fatalities on our highways.

We must ask ourselves: Which is more important, saving time or saving lives? The answer, of course, is obvious.

Therefore, I veto House Bill 862.

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 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-09-02. Speed Limitations.)

- a. Subject to the provisions of section 39-09-01 and except in those instances where a different speed is specified in this chapter, it presumably shall be lawful for the driver of a vehicle to drive the same at a speed not exceeding:
 1. Twenty miles an hour when approaching within fifty feet of a grade crossing of any steam, electric, or street railway when the driver's view is obstructed. A driver's view shall be deemed to be obstructed when at any time during the last two hundred feet of his approach to such crossing he does not have a clear and uninterrupted view of such railway crossing and of any traffic on such railway for a distance of four hundred feet in each direction from such crossing;
 2. Twenty miles an hour when passing a school during school recess or while children are going to or leaving school during opening or closing hours;

3. Twenty miles an hour when approaching within fifty feet and in traversing an intersection of highways when the driver's view is obstructed. A driver's view shall be deemed to be obstructed when at any time during the last fifty feet of his approach to such intersection, he does not have a clear and uninterrupted view of such intersection and of the traffic upon all of the highways entering such intersection for a distance of two hundred feet from such intersection;
 4. Twenty miles an hour when the driver's view of the highway ahead is obstructed within a distance of one hundred feet;
 5. Twenty-five miles an hour on any highway in a business district or in a residence district or in a public park, unless a different speed limit is designated and posted by local authorities; and
 6. Except as provided in subsection e of this section sixty miles an hour under other circumstances, unless otherwise permitted, restricted, or required by conditions.
- b. Except as provided in subsection e of this section the highway commissioner may designate and post special areas of the state highways where the maximum speed limit of seventy miles an hour is permitted for passenger vehicles from sunrise to sunset. For the purposes of this section a pickup truck not exceeding a gross weight of eight thousand pounds shall be regarded as a passenger vehicle. The highway commissioner may also designate and post special areas of state highways where lower speed limits shall be observed as he shall deem warranted by conditions.
 - c. Except as provided by law it shall be unlawful for any person to drive a vehicle upon a highway at a speed that is unsafe or at a speed exceeding the speed limit prescribed by law or established pursuant to law.
 - d. In charging a violation of the provisions of this section, the complaint shall specify the speed at which the defendant is alleged to have driven and the speed which this section prescribes shall be prima facie lawful at the time and place of the alleged offense.

- e. Four lane controlled access highways constituting a portion of the state highways known as the interstate system are hereby designated as special areas where every person operating or driving a motor vehicle of any character on such highway shall drive the same at a rate of speed no greater than is reasonable and proper under the conditions existing at the point of operation, taking into account amount and character of traffic, condition of brakes, weight of vehicle, grade and width of highway, condition of surface, and freedom of obstruction to view ahead. Where no special hazard exists that requires lower speed for compliance with this section the speed of any vehicle not in excess of the limits specified in this section or established as authorized by this chapter, shall be lawful, but any speed in excess of the limits specified in this section or established as authorized in this chapter shall be unlawful.

§ 2. **Effective Date.**) This Act shall terminate and be of no further effect on June 30, 1969.

Disapproved March 13, 1967.

Filed March 13, 1967.

CHAPTER 501

H. B. No. 904
(Dick, Hoghaug, Kingsbury)

BANK INSTALLMENT LOANS

AN ACT

To amend and reenact section 13-04-01 of the 1965 Supplement to the North Dakota Century Code, relating to bank installment loans.

Veto

March 15, 1967

The Honorable Ben Meier
Secretary of State
State Capitol
Bismarck, North Dakota

Dear Mr. Meier:

In 1963, the Legislature passed a law to permit banks to make installment loans up to \$3600 for as long as three years and thirty-two days, at a rate not exceeding \$6 per \$100 per

year upon the total amount of the loan irregardless of how much of that loan had been paid back. This installment bank loan bill permitted an interest charge of from 11.08% to as high as 13.38% depending upon the length of the loan and whether the interest was discounted or added on to the principal at the time the loan was made.

Now, four years later, in House Bill 904, the banks have requested that their installment bank loan law be drastically liberalized from \$3600 to \$10,000 and that the term be extended from three years to ten years, with the rate remaining the same at \$6 per \$100 borrowed per year, no matter how much of the original loan has been repaid. This would permit an interest range of 10.21% to 11.90%.

This new legislation embodied in House Bill 904 does have one good feature in that it abolishes the discount provision of the 1963 law and thereby eliminates an abuse.

Spokesmen for the banking industry say that this new bank installment loan bill is desired so that banks can finance directly many borrowers who must now go to installment loan finance companies operating under a different law to obtain sufficient credit to make large purchases such as trailer houses, combines, automobiles and the like. They also point out that the rising price of items since 1963 makes the \$3600 limitation unrealistic with today's prices.

Banks point to the fact that much larger loans at higher installment rates of interest now may be made by installment loan finance companies than are permitted by banks.

However, it should be noted that banks are involved heavily in the repurchase of these installment loan finance company contracts and are thereby able to do indirectly what they cannot do directly under our present bank lending law.

It is disturbing to me that while we try to hold down the maximum rate of interest, we see laws passed on every hand to increase the rate of interest on small loans, revolving charge accounts and installment loan financing.

From the standpoint of the economic situation of the North Dakota banking industry, our banks are not pressed to increase their profits. Profits of 124 state chartered banks in 1966 were 10.69% on their investment.

It is obvious that if House Bill 904 were to pass, there would be many costly items that would come under the high interest rates of the installment bank loan law which now are protected by our simple 7% maximum interest law.

To those who would argue that since the small loans act and the law governing revolving charge accounts and finance company installment lending permit excessive rates of interest, the banks should be allowed to do likewise, I would take strong exception.

It appears to me that the interest rates charged on the small loans, revolving charge account rates and finance company installment loan rates have reached a point of near scandal. We would be far better off to examine the justification of the excessive interest rates in the other three fields than we would be to shrug them off and say that the banks should be able to carry out the same interest abuse as do some of the other forms of lending.

There is no denying that certain forms of lending carry a higher risk and require more servicing and must, therefore, charge relatively high rates of interest. But there is strong evidence in North Dakota today that the high rates of interest in the small loan field, the revolving charge accounts and finance company installment lending exceed a reasonable return considering their risks and costs.

It is also true that the banks of the state still offer the most dependable service and lowest interest rates of all the plans for financing installment purchases or any other lending on non-real estate security. But I cannot see justifying excessive interest rates by some lenders simply by making it possible for all lenders to charge excessive interest rates.

Perhaps, a moderate adjustment in the installment bank loan law would be justifiable. However, I believe House Bill 904 goes too far.

It is my belief that those who must borrow money with small security, and those who must pay by installments because of their inability to make large repayments, deserve the state's protection far more than do the lenders need an increase in the amount that can be loaned at excessive interest as is proposed in this bill.

I therefore veto House Bill 904.

Sincerely yours,
WILLIAM L. GUY
Governor

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Amendment.) Section 13-04-01 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

13-04-01. 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 ten thousand 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 ten 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 chapter shall not apply to loans secured by realty. Any charge authorized by this chapter 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.

Disapproved March 15, 1967.

Filed March 16, 1967.

CHAPTER 502

H. B. No. 917

(Moquist)

ALTERNATIVE TAXATION OF CERTAIN CORPORATIONS

AN ACT

To amend chapter 57-38 of the North Dakota Century Code by creating and enacting a new section thereto, relating to the election of a corporation to have its undistributable taxable income included in the gross income of its shareholders; and to provide an effective date.

Veto

March 15, 1967

The Honorable Ben Meier
Secretary of State
State Capitol
Bismarck, North Dakota

Dear Mr. Meier:

House Bill 917 authorizes small corporations which might choose to file as partnerships under Subchapter S of the Internal Revenue Code to file in the same manner for determining their North Dakota income tax liability.

These same provisions are contained in more precise and accurate language in Senate Bill 393, which has already been signed into law. House Bill 917 then is in conflict with a superior bill already passed by this session.

I therefore veto House Bill 917 in favor of the same intent which is found in Senate Bill 393.

Sincerely yours,
WILLIAM L. GUY
Governor

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Amendment.) Chapter 57-38 of the North Dakota Century Code is hereby amended by creating and enacting a new section thereto to read as follows:

Subchapter S of United States Internal Revenue Code—Election by Corporation for State Income Tax Purposes.) Any corporation which exercises its right under subchapter S of the United States Internal Revenue Code of 1954, as amended, to have its undistributed taxable income included in the gross income of its shareholders is hereby authorized to make a similar election for the purposes of this chapter. The tax commissioner shall prescribe rules and regulations for the administration of this section which will, so far as consistent with the provisions of this chapter, provide for treatment of such income in a manner similar to that provided for federal income tax purposes.

§ 2. Effective Date.) The provisions of this Act shall become effective only upon the repeal of subsection 8 of section 57-38-21.

Disapproved March 15, 1967.

Filed March 15, 1967.

MEASURES APPROVED OVER GOVERNOR'S VETO

Senate Bill 13.....	Chapter 13, 1967 S.L.
Senate Bill 232.....	Chapter 380, 1967 S.L.
Senate Bill 403.....	Chapter 461, 1967 S.L.
House Bill 615.....	Chapter 232, 1967 S.L.
House Bill 714.....	Chapter 235, 1967 S.L.
House Bill 782.....	Chapter 97, 1967 S.L.
House Bill 941.....	Chapter 463, 1967 S.L.

REFERRED MEASURES, DISAPPROVED

CHAPTER 503

THE 1965 ACT FOR TAX SIMPLIFICATION AND EQUALIZATION

Disapproval and repeal by referendum of House Bill No. 698 to amend and reenact section 57-02-04 of the North Dakota Century Code, relating to the definition of real property for property tax purposes; to amend and reenact subsection 20 of section 57-38-01, sections 57-38-06, 57-38-07, 57-38-30, 57-38-31, and 57-38-32 of the North Dakota Century Code and section 57-38-29 of the 1961 Supplement to the North Dakota Century Code, relating to definitions, nonresidents, fiduciaries, filing of returns, and income tax rates for income tax purposes; to amend and reenact section 57-35-02 of the North Dakota Century Code, relating to taxation of banks and trust companies; to amend and reenact subsection 2 of section 57-35.1-01 of the 1963 Supplement to the North Dakota Century Code, relating to taxation of building and loan associations; to amend and reenact subsections 5 and 10 of section 57-39-03, subsections 1, 2, 4, 7 and 8 of section 57-40-01 and subsection 5 of section 57-40-03, all of the North Dakota Century Code, and subsections 1, 2, 3, 5 and 6 of section 57-39-01, sections 57-39-02 and 57-39-06, subsections 5 and 10 of section 57-40-01, subdivision a of subsection 6 of section 57-40-01 and sections 57-40-02, 57-40-17 and 57-40.1-02, all of the 1963 Supplement to the North Dakota Century Code, and all of which relate to definitions, tax rates, exemptions, and contractors' bonds for purposes of retail sales and use or excise taxes; to create and enact a new subsection to section 57-02-08 of the North Dakota Century Code, relating to exemption of personal property from assessment and taxation; to create and enact four new sections to chapter 57-38 of the North Dakota Century Code, relating to withholding of taxes from wages, payment of taxes withheld, filing and paying declarations of estimated income taxes and providing for adjustments to taxable income, all relating to administration of the income tax law; to create and enact a new subsection to section 57-39-03, relating to exemptions, a new subdivision to subsection 6 of section 57-40-01, relating to definitions, and a new subsection to section 57-40-01, relating to definitions, all of the North Dakota Century Code; to create and enact a new section to chapter 57-39, and a new section to chapter 57-40 of the North Dakota Century Code and to create and enact a new section to chapter 54-40.1 of the 1963 Supplement to the North Dakota Century Code, to provide for a separate and additional one percent retail sales tax and separate and additional one percent excise or use taxes, to provide for the administration thereof and appropriation, allocation and distribution of the revenues therefrom; to provide for a separate and additional one percent excise tax on any casual sales or transfers in this state of motor vehicles that may be subjected to any other similar tax imposed by any other provision of law and to provide for the administration thereof and the appropriation, allocation and distribution of the revenues therefrom; to provide for effective dates for amendments to the income tax law, bank and trust company tax law and building and loan association tax law; to provide the tax commissioner with access to official records of the workmen's

compensation bureau and the unemployment compensation division thereof for purposes of administration of the income tax law; and to repeal subsections 9, 10, and 11 of section 57-02-05, sections 18-03-09, 37-01-27, 57-15-23, 57-38-20, 57-38-21, 57-38-22, 57-38-24, 57-38-26, 57-38-27 and 57-38-28 and chapters 57-03 and 57-31 of the North Dakota Century Code and sections 5-03-26, 15-39-23, 57-38-22.1 and 57-38-36 of the 1963 Supplement to the North Dakota Century Code, by chapter 386 of the 1965 Session Laws.

Disapproved September 21, 1965.

99,269 to 37,886

Note: This was measure No. 4 on the special election ballot.

INITIATED MEASURE, APPROVED

CHAPTER 504

PUBLICATION OF SCHOOL BOARD PROCEEDINGS

An initiated measure for an Act to provide that school board proceedings shall be published if biennially approved by the electors of any school district.

Be It Enacted by the People of the State of North Dakota:

§ 1. Publication of School Board Proceedings—Electorate to Decide Biennially.) Biennially, commencing in the year 1967 at the annual election of school board members held in each school district, the question of whether a record of the proceedings of the school board shall be published in a newspaper of general circulation in such district shall be submitted to the electors of such district. If the publication of such proceedings is approved by a majority of the electors voting thereon, the records of such school board including an itemized list of obligations approved for payment, shall be published in a newspaper of general circulation in such school district as soon as available after each school board meeting for the succeeding two years, or until disapproved at a succeeding school board election.

Approved November 8, 1966.

99,358 to 60,833

Note: This was measure No. 5 on the general election ballot.

LEGISLATIVE REFERRED MEASURE, APPROVED

CHAPTER 505

VOTING BY NEW RESIDENTS

AN ACT

To create and enact sections 16-16-17, 16-16-18, 16-16-19, 16-16-20, 16-16-21, 16-16-22, 16-16-23, 16-16-24, 16-16-25, 16-16-26, and 16-16-27 of the North Dakota Century Code, to provide for voting by new residents in presidential elections, providing a penalty and for its referral to the electorate and providing an effective date.

Approved November 8, 1966.

88,314 to 64,898

Note: This was measure No. 2 on the general election ballot. See chapter 159 of the 1965 Session Laws for the full text of this measure.

INITIATED MEASURES, DISAPPROVED

CHAPTER 506

EXEMPTION OF PERSONAL PROPERTY FROM ASSESSMENT AND TAXATION

An Act to amend and reenact section 57-02-04 of the North Dakota Century Code, relating to the definition of "real property", and section 57-02-08 of the North Dakota Century Code, relating to exemption of personal property from assessment and taxation.

Be It Enacted by the People of the State of North Dakota:

§ 1. **Amendment.)** To amend and reenact section 57-02-04 of the North Dakota Century Code to read as follows:

57-02-04. "Real Property" Defined.) Real property, for the purpose of taxation, includes the land itself, whether laid out in town lots or otherwise, and, except as otherwise provided, all buildings, structures and improvements except plowing and trees, and all rights and privileges thereto belonging or in any wise appertaining, and all mines, minerals, and quarries in and under the same and shall expressly include all improvements made by persons upon lands held by them under the laws of the United States, all such improvements on land the title to which still is vested in any railroad company and which is not used exclusively for railroad purposes, and the improvements of any other corporation whose property is not subject to the same mode and rule of taxation as other property.

§ 2. **Amendment.)** To amend and reenact section 57-02-08 of the North Dakota Century Code by creating and enacting a new subsection thereto to read as follows: All household goods, clothing and other personal belongings, all musical instruments including such instruments as radios, television sets, pianos, and organs, all tools, farm equipment, cattle, merchandise held for resale, and in addition thereto, all other personal property not required to be assessed by the state board of equalization shall become exempt from assessment and taxation in the year 1966 and such property shall not be assessed or taxed for that year or for any year thereafter; provided that this provision shall not apply to any property that is either subjected to a tax which is imposed in lieu of ad valorem taxes, or to any particular kind or class of personal property that is subjected to a tax imposed pursuant to any other provision of law.

Disapproved September 21, 1965.

83,191 to 51,836

Note: This was measure No. 2 on the special election ballot.

CHAPTER 507

THREE PERCENT SALES TAX

An Act to amend and reenact sections 57-39-02 and 57-39-06, North Dakota Century Code, as amended, by increasing the tax rate from two and one-fourth percent (2¼%) to three percent (3%); and extending the effective period thereof until July 1, 1967; and setting out a bracket system applying the 3% rate.

Be It Enacted by the People of the State of North Dakota:

§ 1. **Amendment.)** That section 57-39-02, North Dakota Century Code, be amended and reenacted as follows:

57-39-02. Tax Imposed.) Except as otherwise expressly provided in this chapter, there is hereby imposed, beginning with the 1st day of July, 1965, and ending the 1st day of July, 1967, a tax of three percent (3%) 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;

§ 2. Amendment.) And that section 57-39-06 be amended and reenacted 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 \$0.14	—no tax
.15 to .33	—1¢ tax
.34 to .67	—2¢ tax
.68 to 1.00	—3¢ tax

Each additional \$1.00—3¢ additional tax or each additional 33¢ or fraction thereof over \$1.00—1¢ additional tax.

Disapproved September 21, 1965.

83,610 to 51,081

Note: This was measure No. 3 on the special election ballot.

CONSTITUTIONAL AMENDMENTS, APPROVED

CHAPTER 508

TAX LEVIES

Senate Concurrent Resolution "L", chapter 482, 1965 Session Laws, proposed by the Thirty-ninth Legislative Assembly of the state of North Dakota providing for the amendment of section 175 of the Constitution of the state of North Dakota, relating to the levy of taxes and to the adoption of federal definitions of income, deductions from income, and taxable income for purposes of state personal income, unincorporated business and corporation taxation and to the adoption of federal definitions of gross estate and deductions from gross estate for purposes of state estate taxation by adding the words "Notwithstanding the foregoing or any other provisions of this Constitution, the legislative assembly, in any law imposing a tax or taxes on, in respect to or measured by income, may define the income on, in respect to or by which such tax or taxes are imposed or measured or may define the tax itself by reference to any provision of the laws of the United States as the same may be or become effective at any time or from time to time, and may prescribe exceptions or modifications to any such provision" so as to read as follows:

Be It Enacted by the People of the State of North Dakota:

§ 1. Amendment.) Section 175 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 175. No tax shall be levied except in pursuance of law, and every law imposing a tax shall state distinctly the object of the same, to which only it shall be applied. Notwithstanding the foregoing or any other provisions of this Constitution, the legislative assembly, in any law imposing a tax or taxes on, in respect to or measured by income, may define the income on, in respect to or by which such tax or taxes are imposed or measured or may define the tax itself by reference to any provision of the laws of the United States as the same may be or become effective at any time or from time to time, and may prescribe exceptions or modifications to any such provision.

Approved September 6, 1966.

46,052 to 37,743

Note: This was measure No. 1 on the primary election ballot.

CHAPTER 509

OFFICE OF COUNTY SUPERINTENDENT OF SCHOOLS

House Concurrent Resolution "O", chapter 485, 1965 Session Laws, proposed by the Thirty-ninth Legislative Assembly of the state of North Dakota providing for the amendment of section 150 of the Constitution of the state of North Dakota, relating to the office of the county superintendent of schools by adding the words "Provided, however, a superintendent of schools may be elected by and serve two or more counties or parts of counties as provided by law" so as to read as follows:

Be It Enacted by the People of the State of North Dakota:

§ 1. Amendment.) Section 150 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 150. A superintendent of schools for each county shall be elected every four years beginning in the year 1964, whose qualifications, duties, powers and compensation shall be fixed by law. Provided, however, a superintendent of schools may be elected by and serve two or more counties or parts of counties as provided by law.

Approved September 6, 1966.

56,175 to 32,297

Note: This was measure No. 2 on the primary election ballot.

CHAPTER 510

HOME RULE FOR CITIES AND VILLAGES

Senate Concurrent Resolution "C", chapter 480, 1965 Session Laws, proposed by the Thirty-ninth Legislative Assembly of the state of North Dakota to provide for the amendment of section 130 of the Constitution of the state of North Dakota, relating to home rule for cities and villages by adding after the words section 130 the following words "Except in the case of home rule cities and villages as provided in this section", and by adding after the words authority of law the following words "The legislative assembly shall provide by law for the establishment of home rule in cities and villages. It may authorize such cities and villages to exercise all or a portion of any power or function which the legislative assembly has power to devolve upon a non-home rule city or village, not denied to such city or village by its own home rule charter and which is not denied to all home rule cities and villages by statute. The legislative assembly shall not be restricted in granting of home rule powers to home rule cities and villages by section 183 of this Constitution" so as to read as follows:

Be It Enacted by the People of the State of North Dakota:

§ 1. Amendment.) Section 130 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 130. Except in the case of home rule cities and villages as provided in this section the legislative assembly shall provide by general law for the organization of municipal corporations, restricting their powers as to levying taxes and assessments, borrowing money, and contracting debts. Money raised by taxation, loan or assessment for any purpose shall not be diverted to any other purpose except by authority of law.

The legislative assembly shall provide by law for the establishment of home rule in cities and villages. It may authorize such cities and villages to exercise all or a portion of any power or function which the legislative assembly has power to devolve upon a non-home rule city or village, not denied to such city or village by its own home rule charter and which is not denied to all home rule cities and villages by statute. The legislative assembly shall not be restricted in granting of home rule powers to home rule cities and villages by section 183 of this Constitution.

Approved November 8, 1966.

84,255 to 77,187

Note: This was measure No. 1 on the general election ballot.

CONSTITUTIONAL MEASURES, DISAPPROVED

CHAPTER 511

ISSUANCE OF BONDS BY THE STATE AND ITS SUBDIVISIONS

House Concurrent Resolution "M", chapter 484, 1965 Session Laws, proposed by the Thirty-ninth Legislative Assembly of the state of North Dakota for an amendment to the Constitution of the state of North Dakota, relating to the indebtedness of the state, state agencies, and county, township, municipal, school, and other public corporations and political subdivisions; authorizing and defining self-liquidating bonds secured by the pledge of the full faith and credit of the issuer, or payable solely from special taxes, assessments, charges, fees, or rentals; limiting other indebtedness of the state; and repealing section 182 of the Constitution of the state of North Dakota.

Be It Enacted by the People of the State of North Dakota:

§ 1.) The Constitution of the state of North Dakota shall be amended by adding thereto the following article:

Notwithstanding any other provision in the Constitution, the state and any state agency and any county, township, municipal, school, or other public corporation or political subdivision of any kind may incur self-liquidating indebtedness for such purposes and in such amounts as may now or hereafter be authorized by law, provided that such indebtedness is evidenced by the issuance of bonds secured as provided in this article.

Self-liquidating bonds may be made primarily payable from any special tax or assessment, other than an ad valorem tax upon property, or from any charge, fee, or rental established for the use, availability, occupancy, or purchase of any service, commodity, building, or facility, or from any combination of these sources; including, but without limitation, excise, privilege, occupation, or income taxes, fees and charges for state parks and other public facilities, and building fees charged to students at institutions of higher learning and vocational education.

The law, ordinance, resolution, indenture, or other instrument or instruments under which such bonds are issued shall define clearly the taxes, assessments, charges, fees, or rentals designated as the primary source of revenues for the payment of the bonds, and shall state what other payments or expenses, if any, are to be deducted from the gross revenues collected

from this source to determine the net revenues available for bond service, and shall irrevocably pledge and appropriate these revenues to a special fund or funds to the extent necessary to pay the bonds and interest thereon when due and to accumulate and maintain such reserves securing these payments as may be required in such instruments.

The legislative assembly may delegate to the governing board of the agency, corporation, or subdivision authorized to issue such bonds the power to determine the specific uses of the proceeds and the specific covenants to be made by the issuer to assure the segregation and sufficiency of the pledged revenues, in accordance with such provisions on these matters as may be made by law.

The full faith and credit of the issuer may be pledged, when authorized by law, for the prompt and full payment of any self-liquidating bonds issued under this article. In this event, if a deficiency exists at any time in the bond reserve required to be maintained, the proper administrative officers of the issuer shall levy an ad valorem tax, without limitation as to rate or amount, upon all taxable property within its governmental or corporate limits in the amount required, with any other funds immediately available, appropriated, and transferred by the governing board to the reserve, to restore the deficiency; and the property tax or other funds placed in the reserve shall be reimbursed to the issuer from the next pledged revenues received which are not required to pay principal and interest on the bonds and to maintain the reserve.

Alternatively, when authorized by law, self-liquidating bonds may be made payable solely from the revenues pledged for their payment. In this event, if a deficiency exists at any time in the bond reserve, the obligation of the issuer shall be limited to the increase of the rate or amount of the special taxes, assessments, charges, fees, or rentals, pledged, to such extent and in such manner as may be required by the instruments under which the bonds are issued, and compliance with other covenants contained therein.

An issue of bonds may be made partially self-liquidating, when authorized by law. In this event, that portion of the principal amount of the issue from time to time outstanding, for the payment of which revenues from the special sources herein described are not pledged, shall be subject to limitations on the indebtedness of the issuer which are contained elsewhere in the Constitution.

The provisions of sections 183 and 184 of this Constitution shall not apply to the self-liquidating indebtedness of the public corporations and political subdivisions referred to therein.

Except for self-liquidating indebtedness, as defined in the preceding paragraphs of this article, the state shall not incur indebtedness at any time in an amount exceeding five percent of the assessed value of all taxable property in the state. "Assessed value" means the full and true value of such property, as last finally determined by the officers and boards directed by law to value it for the purpose of taxation, without regard to any reduction of such value which may be required by law to establish a valuation or amount upon which rates of taxation are to be computed and extended. "Indebtedness" so limited means the principal amount of all bonds issued at any time and all bonds outstanding at the same time, excluding self-liquidating bonds, less the amount on hand at the same time, in cash or investments authorized by law, and the amount of taxes then levied and in the process of collection, which are irrevocably appropriated for the payment of such indebtedness. No such indebtedness shall be incurred by the state unless evidenced by a bond issue, which shall be authorized by a law providing for the levy of an annual ad valorem tax, or shall make other provision, sufficient to pay the interest semiannually and the principal within thirty years from the date of the issue of such bonds and shall specially appropriate the proceeds of such tax or of such other provisions to the payment of said principal and interest, and such appropriation shall not be repealed nor the tax or other provisions discontinued until such debt, both principal and interest, shall have been paid.

This article is self-executing, and shall become effective without the necessity of legislative action, except to the extent that such action is specifically referred to herein. Existing laws shall have the full force and effect which is permitted under this article. All actions taken pursuant to existing laws which would have been valid if this article had been in effect when they were taken are validated.

§ 2. Repeal.) Section 182 of the Constitution of the state of North Dakota is hereby repealed.

Disapproved September 21, 1965.

54,045 to 79,638

Note: This was measure No. 1 on the special election ballot.

CHAPTER 512

SELECTION OF JUDGES

Senate Concurrent Resolution "P", chapter 481, 1965 Session Laws, proposed by the Thirty-ninth Legislative Assembly of the state of North Dakota to provide for the amendment of section 90 of the Constitution of the state of North Dakota changing the selection of judges from an elective to an appointive-elective system and to preserve the tenure of the judges presently in office and those who would take office prior to the effective date of this amendment.

Be It Enacted by the People of the State of North Dakota:

§ 1. **Amendment.)** Section 90 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 90. A vacancy as defined by law occurring in the office of judge of the supreme court or district court shall be filled by the governor from a list of three nominees presented to him by the judicial nominating commission. If the governor should fail to make an appointment from the list within thirty days from the day it is presented to him, the appointment shall be made by the chief justice of the supreme court from the same list within fifteen days. At the next general election after the expiration of three years from the date of appointment and every ten years thereafter, judges of the supreme court shall be subject to approval by a majority vote of the electorate voting upon the question. At the next general election after the expiration of three years from the date of appointment and every six years thereafter, judges of the district courts shall be subject to approval by a majority vote of the electorate voting upon the question. In the case of a judge of the supreme court, the electorate of the state shall vote on the question of approval. In the case of a judge of the district court, only the electorate of that judicial district shall vote on the question of approval. The chief justice shall be selected as provided by law. All judges shall hold their offices until their successors are duly qualified and shall receive such compensation for their services as may be prescribed by law.

There shall be a judicial nominating commission which shall select the nominees for appointment to the office of judge of the supreme court and district courts. The membership of such commission shall consist of the chief justice of the supreme court, who shall act as chairman; one member of the North Dakota state bar association from each judicial district, who shall be appointed by such association; and one citizen, not a member of the bar, appointed by the governor for

staggered terms of six years from each judicial district. No member of the judicial nominating commission appointed by the governor shall hold an elective office in the state, federal, or county governments.

§ 2.) The Constitution of the state of North Dakota shall be amended by adding thereto the following section:

Any person elected or appointed to an office of judge of the supreme court or district court of this state prior to the effective date of section 90 of the North Dakota Constitution, as amended at the general election held in November 1966, shall serve the term for which he was elected or appointed and shall be eligible to succeed himself for reelection by submitting his name to the electorate for approval or rejection as provided by law and this Constitution unless he shall die, resign, or be removed from office prior to the expiration of his term, whereupon the office shall be filled as prescribed by law and this Constitution.

Disapproved November 8, 1966.

73,231 to 82,644

Note: This was measure No. 3 on the general election ballot.

CHAPTER 513

CONSTITUTIONAL REVISION

Senate Concurrent Resolution "A", chapter 483, 1965 Session Laws, proposed by the Thirty-ninth Legislative Assembly of the state of North Dakota for the amendment of sections 2, 7, 9, and 10, relating to the declaration of rights and to repeal sections 8, 21, and 24, relating to the declaration of rights; to provide that the legislature may prescribe the form and numbering of the Constitution and to amend and reenact sections 25, 26, 29, 37, 42, 48, 51, 53, 55, 56, 58, 62, 64, 65, 66, 67, 68, 148, 155, 167, 174, and 188, relating to the organization, procedure, operation, and authority of the legislature and to repeal sections 27, 28, 30, 31, 32, 33, 34, 35, 36, 38, 39, 40, 41, 44, 45, 46, 47, 49, 52, 54, 57, 59, 60, 61, 63, 69, 70, 77, 139, 163, 165, 175, 177, 180, 181, 189, 190, 191, 192, 193, and Article 14 of the Amendments, relating to the organization, procedure, operation, and authority of the legislature; and to amend and reenact sections 71, 72, 73, 75, and 80, relating to constitutionally created elected offices, elections, and general powers and duties placed within the executive branch of government and to repeal Article 51 of the Amendments, relating to appointments; to provide for two-thirds of the supreme court members to declare a law unconstitutional, judicial districts, judicial council, removal of supreme court and district court judges and to amend and reenact sections 85, 94, and 100, relating to the powers of the judiciary, and to repeal sections 88, 89, 92, 93, 95, 96, 97, 98, 102, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, and 120, relating to procedures of state courts; all such sections amended and repealed being a part of the Constitution of the state of North Dakota.

Be It Enacted by the People of the State of North Dakota:

§ 1. **Amendment.)** Section 2 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 2. All political power is inherent in the people. Government is instituted for the equal protection, security and mutual benefit of the people, and they have a right to alter or reform the same whenever the public good may require.

§ 2. **Amendment.)** Section 7 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 7. The right of trial by jury shall remain inviolate, but shall be waived in all civil cases unless demanded by one of the parties in the manner prescribed by law. The legislative assembly may make provisions for a verdict in civil cases by not less than three-fourths of the jury and in courts not of record may provide for a jury of not less than six nor more than twelve.

§ 3. Amendment.) Section 9 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 9. Every man may freely write, speak and publish his opinions on all subjects, being responsible for the abuse of that privilege. In all civil and criminal trials for libel the truth may be given in evidence, and shall be a sufficient defense when the matter is published with good motives and for justifiable ends.

§ 4. Amendment.) Section 10 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 10. The right of the people peaceably to assemble and to petition the government shall never be abridged.

§ 5. Amendment.) Section 25 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 25. The legislative power of this state shall be vested in a senate and a house of representatives which jointly shall be designated as the legislative assembly of the state of North Dakota. The people, however, reserve to themselves the power, first, to propose measures and to enact or reject the same at the polls, which power is the initiative; and second, to approve or reject at the polls any measure or any item, section, part or parts of any measure enacted by the legislative assembly, except measures or portions of measures appropriating public funds, which power is the referendum.

The legislative assembly shall provide by law for the use of the initiative and the referendum, for the effective date of initiated and referred measures, and for resolving conflicts between such measures. Electors at large totaling three percent of the population of North Dakota as determined by the latest federal decennial census may propose any measure by initiative petition. Electors at large totaling two percent of the population of North Dakota as determined by the latest federal decennial census may by petition exercise the power of referendum.

The veto power of the governor shall not extend to the measures initiated by or referred to the electors. No measure enacted or approved by a vote of the electors shall be repealed or amended by the legislative assembly within five years of its enactment or approval, except upon an affirmative vote of two-thirds of all the members elected to each house.

§ 6. **Amendment.)** Section 26 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 26. Members of the senate shall be elected for a term of four years. Members of the house of representatives shall be elected for a term of two years. The term of service of members of the legislative assembly shall begin on the first day of December following their election, or at such other time as may be prescribed by law. No person shall be a senator or representative who is not a qualified elector of the district in which he may be chosen, who has not been a resident of the state for two years preceding his election, and who has not attained the age of twenty-five years in the case of a senator and twenty-one years in the case of a representative, but each house shall be the judge of the election returns and the qualifications of its own members.

§ 7. **Amendment.)** Section 29 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 29. The legislative assembly shall as soon as possible after each federal decennial census proceed to fix by law the number of senators at not less than thirty, which shall constitute the senate of North Dakota, and the number of representatives at not less than sixty, which shall constitute the house of representatives of North Dakota. The legislative assembly shall divide the state into legislative districts and apportion to each district the number of senators or representatives so that as nearly as possible all inhabitants of this state entitled to representation shall be equally represented in the legislative assembly. The legislative assembly may provide for single member districts, multi-member districts, or both. Each district shall be composed of contiguous territory and the districts as thus ascertained shall continue until changed by law.

§ 8. **Amendment.)** Section 37 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 37. No member of the legislative assembly shall concurrently hold another office of the state other than of its political subdivisions, or of the United States, which offices may be prescribed by law.

§ 9. **Amendment.)** Section 42 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 42. The members of the legislative assembly shall in all cases except felony, be privileged from restraint resulting from arrest during their attendance at the sessions of their respective houses, and in going to or returning from the same. For words used in any speech or debate in either house or at any session of any committee or interim committee thereof, they shall not be held for slander or libel in any court.

§ 10. **Amendment.)** Section 48 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 48. Each house shall have the power to determine the rules of proceedings, to punish its members and others for contempt or disorderly behavior in its presence; to protect its members against violence, offers of bribery or private solicitation, to expel a member upon concurrence of two-thirds of its members, and in addition shall have all other power necessary and usual in the legislative assembly of a state. Imprisonment by either house shall not exceed thirty days and punishment for contempt or disorderly behavior shall not bar a criminal prosecution for the same offense.

§ 11. **Amendment.)** Section 51 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 51. Neither house shall, without the consent of the other, adjourn at any time for more than three days nor to any other place than that in which the two houses shall be sitting.

§ 12. **Amendment.)** Section 53 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 53. The legislative assembly shall meet at the seat of government in the month of December following the election of the members thereof for organizational and orientation purposes as provided by law and shall thereafter recess until January third or at such other time as may be prescribed by law. If January third shall be a Sunday or legal holiday, the legislative assembly shall convene on the succeeding day.*

§ 13. **Amendment.)** Section 55 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

*Note: See chapter 342, 1965 S.L.

SECTION 55. The sessions of the legislative assembly shall be biennial, except as otherwise provided by law. Special sessions may be called by the governor or by the legislative assembly itself. Special sessions may be called by the legislative assembly only if such calling is approved by two-thirds of all its members in the manner provided by law.*

§ 14. **Amendment.)** Section 56 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 56. Each session of the legislative assembly shall not exceed sixty legislative days, except in case of impeachment. However, by joint resolution, approved by a majority of the members of both houses after the fiftieth day of any session, the session may be extended not to exceed ten legislative days. The organizational meeting of the legislative assembly as provided in section 53 shall not be counted as part of such sixty legislative days.

§ 15. **Amendment.)** Section 58 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 58. No law shall be passed except by a bill adopted by both houses of the legislative assembly. Every bill shall be read two times in each house, but the first and second reading may not be upon the same legislative day. Each reading may be by title only unless a reading at length is demanded by any member.

§ 16. **Amendment.)** Section 62 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 62. General appropriation bills shall embrace nothing but appropriations for the expenses of the executive, legislative and judicial departments of the state, interest on the public debt, and for public schools. All other appropriations shall be made by separate bills, each embracing but one subject. The bills prepared by the budget agency provided by law shall be passed or rejected by the house of the legislative assembly in which they were introduced before that house passes any other appropriation bill except bills supplementing appropriations for the current fiscal period's operation. The legislative assembly shall provide for estimates of income and balances to be available for appropriation during the succeeding fiscal period, and the total of all appropriations for such period shall not exceed the estimate of balances and income.

*Note: See chapter 341, 1965 S.L.

§ 17. **Amendment.)** Section 64 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 64. No bill shall be revised or amended nor the provisions thereof extended or incorporated in any other bill by reference to its title only, except in the case of definitions and procedural provisions, but so much thereof as is revised, amended or extended or so incorporated shall be reenacted and published at length.

§ 18. **Amendment.)** Section 65 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 65. Each house shall keep a journal of its proceedings, and the yeas and nays on any question shall be taken and recorded in the journal at the request of one-sixth of those present. No bill shall become a law except by a vote of a majority of all the members-elect in each house, nor unless, on its final passage, the vote be recorded by yeas and nays, and the names of those voting be entered on the journal.

§ 19. **Amendment.)** Section 66 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 66. The presiding officer of each house shall sign all bills and joint resolutions passed by the legislative assembly, and the fact of signing shall be entered on the journal.

§ 20. **Amendment.)** Section 67 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 67. All Acts of the legislative assembly shall become effective on July first after the close of the session or subsequent thereto if specified in the measure, unless the legislature by a vote of two-thirds of the members present and voting, in each house, shall declare it an emergency measure which declaration shall be set forth in the Act. An emergency measure shall take effect and be in force from and after its passage and approval by the governor.

In the event a referendum petition is filed before July first following a legislative session, the legislative Act or parts thereof subject to the referendum shall not become effective until the sufficiency of the referendum petition has been determined as prescribed by law, or in the event such petitions are determined sufficient until the measure has been upheld at an election.

§ 21. **Amendment.)** Section 68 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 68. The legislative assembly shall pass all laws necessary to carry into effect the provisions of this Constitution. No local or special laws shall be enacted nor shall the legislative assembly indirectly enact such special or local laws by the partial repeal of a general law, but laws repealing local or special acts may be passed.

§ 22. **Amendment.)** Section 148 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 148. The legislative assembly shall provide for a uniform system of free public schools throughout the state, beginning with the primary and extending through all grades up to and including schools of higher education; provided, however, that the legislative assembly may authorize fees and service charges in public schools of higher education.

§ 23. **Amendment.)** Section 155 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 155. The legislative assembly shall provide for the sale of all lands granted to the state from the United States for the support of the common schools. In such sales all the minerals, including but not limited to oil, gas, coal, cement materials, sodium sulphate, sand and gravel, road material, building stone, chemical substances, metallic ores, uranium ores, and colloidal or other clay, shall be reserved and excepted to the state of North Dakota. Leases may be executed by the state for the extraction and sale of such minerals in the manner and upon such conditions as the legislative assembly may provide.

§ 24. **Amendment.)** Section 167 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 167. The legislative assembly shall provide by general law for the consolidation of counties, and for their dissolution, but no counties shall be consolidated without a majority vote of those voting on the question in each county affected, and no county shall be dissolved without a majority vote of the electors of such county voting on such question.

§ 25. **Amendment.)** Section 174 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 174. The legislative assembly shall provide for raising revenue sufficient to defray the expenses of the state for each year, not to exceed in any one year when raising revenues based upon an ad valorem tax on property, four (4) mills on the dollar of the assessed valuation of all taxable property in the state, to be ascertained by the last assessment made for state and county purposes, and also a sufficient sum to pay the interest on the state debt.

§ 26. **Amendment.)** Section 188 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 188. The legislative assembly shall provide for the establishment, organization, and maintenance of a state militia. The members of the militia shall in all cases, except a felony, be privileged from arrest while in the performance of their official duties as such militiamen.

§ 27.) The Constitution of the state of North Dakota shall be amended by adding thereto the following section:

The legislative assembly may prescribe or provide for the form, style, numerical sequence, and arrangement of this Constitution, for the purpose of its publication in an integrated and logical form.

§ 28. **Amendment.)** Section 71 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 71. The executive power shall be vested in a governor, who shall reside at the seat of government and shall hold his office for the term of four years and until his successor is elected and qualified. No person shall be eligible for the office of governor for more than two terms, and the holding of the office or exercising the powers and performing the duties for more than two years of any term shall be considered as the holding of the office for one term under this limitation.

§ 29. **Amendment.)** Section 72 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 72. A lieutenant governor shall be elected at the same time and for the same term as the governor. In case of the death, impeachment, resignation, failure to qualify, removal from office, or the disability of the governor, the powers and duties of the office for the residue of the term, or until he shall be acquitted or the disability be removed, shall devolve upon the lieutenant governor and during the

period of the exercise of the powers and the performance of the duties he shall be acting governor. In the event of the absence of the governor from the state, the powers and duties of the office shall devolve upon the lieutenant governor only to the extent that the governor shall specify in writing.

§ 30. Amendment.) Section 73 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 73. No person shall be eligible to the office of governor or lieutenant governor unless he is a citizen of the United States, and a qualified elector of the state, who shall have attained the age of thirty years, and who shall have resided five years next preceding the election within the state, nor shall he be eligible to any other office of the state or its political subdivisions during the term for which he shall have been elected.

§ 31. Amendment.) Section 75 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 75. The governor shall be commander-in-chief of the military forces of the state, except when they shall be called into the service of the United States, and may call out the same to execute the laws, suppress insurrection and repel invasion. He shall have power to convene the legislative assembly on extraordinary occasions. He shall at the commencement of each session, and may at other times, communicate to the legislative assembly by message, information of the condition of the state, and recommend such measures as he shall deem expedient. He may in his discretion supervise all necessary business with the officers of the government of the United States, and other states thereof. He shall expedite all such measures as may be resolved upon by the legislative assembly and shall take care that the laws be faithfully executed.

§ 32. Amendment.) Section 80 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 80. The governor shall have power to disapprove or reduce any item or items or part or parts of any bill making appropriations of money or property embracing distinct items except any bill making appropriations of money or property for the operation of the legislative assembly or its permanent or interim agencies. The part or parts of the bill approved or approved as reduced shall be the law, and the item or items and part or parts disapproved or reduced shall be void, unless

enacted in the following manner: If the legislative assembly be in session he shall transmit to the house in which the bill originated a copy of the item or items, or part or parts thereof disapproved or reduced together with his objections thereto, and the items or parts objected to or reduced shall be separately reconsidered, and each item or part shall then take the same course as is prescribed for the passage of bills over the executive veto.

§ 33. Amendment.) Section 85 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 85. The judicial power of the state shall be vested in a supreme court of not less than five judges one of whom shall be chief justice, district courts, county courts, and such other courts as may be provided by law.

§ 34.) The Constitution of the state of North Dakota shall be amended by adding thereto the following section:

No law or legislative enactment of the state of North Dakota shall be declared unconstitutional by the supreme court unless at least two-thirds of the judges so decide.

§ 35. Amendment.) Section 94 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 94. Supreme court judges, district court judges, and judges of county courts of increased jurisdiction shall be citizens of the United States and of this state, licensed to practice law in the state, and possess any additional qualifications prescribed by law. Judges of other courts shall be selected in a manner, for terms, and with qualifications prescribed by law.

§ 36. Amendment.) Section 100 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 100. If any judge of the supreme court shall have an interest in a case brought before such court or be unable to hear a case because of being physically or mentally incapacitated, the chief justice of said court shall call one of the district judges to sit with them on the hearing of such case.

§ 37.) The Constitution of the state of North Dakota shall be amended by adding thereto the following section:

The state shall be divided into judicial districts as provided by law.

§ 38.) The Constitution of the state of North Dakota shall be amended by adding thereto the following section:

There shall be maintained a judicial council whose membership, powers, and duties shall be those prescribed as by this Constitution and by law.

§ 39.) The Constitution of the state of North Dakota shall be amended by adding thereto the following section:

Whenever the judicial council certifies to the governor that a supreme court judge appears to be so incapacitated as substantially to prevent him from performing his judicial duties, the governor shall appoint a board of three persons to inquire into the circumstances, and may on the board's recommendation retire the judge. Whenever a judge of a district court appears to be so incapacitated as substantially to prevent him from performing his judicial duties, the judicial council shall certify such fact to the supreme court and recommend to the supreme court that the judge be placed under early retirement. After notice and hearing, the supreme court by majority vote of its members may retire the judge.

§ 40. **Repeal.)** Sections 8, 21, 24, 27, 28, 30, 31, 32, 33, 34, 35, 36, 38, 39, 40, 41, 44, 45, 46, 47, 49, 52, 54, 57, 59, 60, 61, 63, 69, 70, 77, 139, 163, 165, 175, 177, 180, 181, 189, 190, 191, 192, 193, 88, 89, 92, 93, 95, 96, 97, 98, 102, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 120, and Articles 14 and 51 of the Amendments to the Constitution of the state of North Dakota are hereby repealed.

Disapproved November 8, 1966.

69,116 to 84,131

Note: This was measure No. 4 on the general election ballot.

CONSTITUTIONAL AMENDMENTS, PROPOSED

CHAPTER 514

SENATE CONCURRENT RESOLUTION "J"

(Larson (Burleigh), Stroup, Nasset, Melland, Chesrown, Pyle,
(Schultz, Morgan, Kautzmann, Butler, Lips, Goldberg, Lowe,
(Larsen, Luick, Hofstrand, Ruemmele, Redlin, Sands, Roen,
(Wenstrom, Hernet, Berube)

UNIFORM SYSTEM OF FREE PUBLIC SCHOOLS

A concurrent resolution for the amendment of section 148 of the Constitution of the state of North Dakota, relating to a uniform system of free public schools.

Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the following proposed amendment to section 148 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 September 1968, in accordance with the provisions of section 202 of the Constitution of the state of North Dakota, as amended.

§ 1. **Amendment.**) Section 148 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 148. The legislative assembly shall provide for a uniform system of free public schools throughout the state, beginning with the primary and extending through all grades up to and including schools of higher education, except that the legislative assembly may authorize tuition, fees and service charges to assist in the financing of public schools of higher education.

Filed March 2, 1967.

CHAPTER 515

SENATE CONCURRENT RESOLUTION "OO"

(Larsen(18), Coughlin, Becker, Kautzmann, Roen, Pyle, Nething,
(Goldberg, Freed, Chesrown, Lowe, Decker, Butler, Jacobson,
(Litten, Morgan, Wilhite, Lips, Kelly(24), Larson(32), Melland,
(Geving, Stroup)

LOWERING OF VOTING AGE

A concurrent resolution for the amendment of section 121 of the Constitution of the state of North Dakota, relating to the elective franchise lowering the voting age from twenty-one to nineteen.

Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the following proposed amendment to section 121 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 at the primary election to be held in September 1968, in accordance with the provisions of section 202 of the Constitution of the state of North Dakota, as amended.

§ 1. Amendment.) Section 121 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 121. Every person of the age of nineteen or upwards who is a citizen of the United States and who shall have resided in the state one year and in the county ninety days and in the precinct thirty days next preceding any election shall be a qualified elector at such election. Provided, that where a qualified elector moves from one precinct to another within the state, he shall be entitled to vote in the precinct from which he moves until he establishes his residence in the precinct to which he moves.

Filed March 16, 1967.

CHAPTER 516

SENATE CONCURRENT RESOLUTION "PP"
(Trenbeath, Torgerson)

POLITICAL SUBDIVISION DEDICATED REVENUE BONDS

A concurrent resolution for the amendment of the Constitution of the state of North Dakota, relating to issuance of dedicated revenue bonds by political subdivisions of the state and providing for the methods for repayment thereof.

Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the Constitution of the state of North Dakota be amended by adding thereto the following section which is agreed to and which shall be submitted to the qualified electors of the state of North Dakota for approval or rejection at the primary election in September 1968, in accordance with the provisions of section 202 of the Constitution of the state of North Dakota, as amended.

§ 1.) The Constitution of the state of North Dakota shall be amended by adding thereto the following section:

Notwithstanding sections 175, 176, 179, 183, 184, and 185, or other provisions of this Constitution, political subdivisions of the state of North Dakota may incur indebtedness by the issuance of dedicated bonds for such purposes, amounts, manner, and subject to such limitations as shall be prescribed by law.

A dedicated bond as used in this section means an instrument of indebtedness, either incurred or to be incurred, for which certain taxes, moneys, income or revenue, except ad valorem taxes on either personal or real property, or special assessments on personal or real property, are irrevocably pledged and dedicated for the retirement of said indebtedness. The legislature shall prescribe the manner and conditions under which payments from any fund may be made in the event the dedicated funds are inadequate to pay principal or interest when due, or when default is imminent, and the manner and conditions in which repayments shall be made to the funds drawn upon. The legislature may substitute other funds for dedicated funds but it shall not destroy the effect of the pledged or dedicated revenues, moneys or income for any bond issue.

Nothing herein shall affect the obligations of municipal bonds payable in whole or in part from special assessments,

or other taxes levied on all taxable property for the payment of any deficiency in special assessment bonds, or other funds pledged to payment of such bonds.

Filed March 16, 1967.

CHAPTER 517

SENATE CONCURRENT RESOLUTION "UU" (Longmire, Wenstrom, Chesrown, Holand)

SELECTION OF JUDGES

A concurrent resolution for the amendment of sections 85, 90, 94, and 100 of the Constitution of the state of North Dakota, relating to the powers of the judiciary, changing the selection of judges from an elective to an appointive-elective system, preserving the tenure of judges presently in office and those who would take office prior to the effective date of this amendment; to provide for the retirement, discipline and removal of supreme and district court judges; to provide for requirements to declare a law unconstitutional; providing for judicial districts, judicial council, and to repeal sections 88, 89, 92, 93, 95, 97, 98, 102, 104, 105, 106, 107, 108, 109, 112, 113, 114, 115, 116, 117, and 118, relating to procedures of state courts, all of such sections amended and repealed being a part of the Constitution of the state of North Dakota.

Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That following proposed new sections and amendments, and repeals to the Constitution of the state of North Dakota are 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 September 1968, or at any special statewide election called by the governor for approval or rejection of amendments to the Constitution, in accordance with the provisions of section 202 of the Constitution of the state of North Dakota, as amended:

§ 1. Amendment.) Section 85 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 85. The judicial power of the state shall be vested in a supreme court, district courts and divisions thereof, county courts and other courts as provided by law.

The supreme court shall consist of five justices, one of whom shall be chief justice; a majority of whom shall be necessary to form a quorum or pronounce a decision, provided that in no case shall any law be declared unconstitutional unless at least four of the justices shall so decide.

The chief justice of the supreme court shall be selected by the supreme and district court judges as provided by law.

The chief justice shall be the chief administrative officer of the judicial system with supervisory administrative authority over the operation of all courts and assignment of justices and judges.

§ 2. Amendment.) Section 90 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 90. A vacancy occurring in the office of a justice of the supreme court or judge of the district court shall be filled by the governor from a list of three nominees presented to him by the judicial nominating committee. If the governor should fail to make an appointment from such list within thirty days from the date it is presented to him, the appointment shall be made by the chief justice of the supreme court from the same list within fifteen days. At the next general election after the expiration of three years from the date of appointment and every ten years thereafter, justices of the supreme court shall be subject to approval by a majority vote of the electorate voting upon the question. At the next general election after the expiration of three years from the date of appointment and every six years thereafter, judges of the district court shall be subject to approval by a majority vote of the electorate voting upon the question. In the case of a justice of the supreme court, the electorate of the state shall vote upon the question of approval. In the case of a judge of the district court only the electorate of that district shall vote on the question of approval. All justices and judges shall hold their offices until their successors are duly qualified and shall receive such compensation for their services as prescribed by law.

There shall be a judicial nominating committee which shall select the nominees for appointment to the office of justice of the supreme court and judge of the district court. The committee shall not nominate any person who is, or within a period of one year has been, a member of that committee. The membership of such committee shall consist of the chief justice of the supreme court, who shall act as chairman, one attorney licensed to practice law from each judicial district who shall be selected by the attorneys licensed to practice law residing within such district; and one citizen from each judicial district, not an attorney licensed to practice law, appointed by the majority decision of the attorney general, the secretary of state and the governor. No member of the judicial nominating committee shall hold any elective office in the state, federal

or county governments or hold office in any political party. The terms of office and compensation for members of the committee shall be provided by law.

§ 3. Amendment.) Section 94 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 94. All justices and all judges shall be citizens of the United States. No person shall be eligible to an appointment as district judge unless such person shall be a resident of this state and of the judicial district in which he shall serve and shall have been licensed to practice law in this state for at least five years prior to such appointment; no person shall be eligible to an appointment as a justice of the supreme court unless such person shall be a resident of this state and have been licensed to practice law in this state for at least ten years prior to such appointment or is a district judge. The legislative assembly may prescribe by law additional qualifications for justices of the supreme court and judges of the district court. Judges of other courts shall be selected in a manner, for such terms, and with such qualifications as shall be prescribed by law.

No justice or judge of the supreme court or district courts shall engage in the practice of law, or directly or indirectly make any contribution to, or hold office in a political organization or file for elective office other than judicial.

§ 4. Amendment.) Section 100 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 100. If any justice or judge of the supreme or district court shall have an interest in a case in his court or be unable to hear a case because of being physically or mentally incapacitated or declares himself disqualified, the chief justice may assign a justice or judge in such cases.

§ 5. Amendment.) The Constitution of the state of North Dakota shall be amended by adding thereto the following section:

There shall be a judicial council whose membership shall consist of all supreme court justices, all district judges and other judges and attorneys licensed to practice law in this state as may be provided by law. Its powers and duties shall be as prescribed by this Constitution and by law.

§ 6. Amendment.) The Constitution of the state of North Dakota shall be amended by adding thereto the following section:

Any judge of the supreme or district court elected or appointed to the office prior to the effective date of these amendments shall serve the balance of his term and shall be eligible to succeed himself as provided by this Constitution and by law.

§ 7. **Amendment.)** The Constitution of the state of North Dakota shall be amended by adding thereto the following:

A justice or judge of the supreme or district court may be censured, retired, or removed from his judicial office by a two-thirds vote of the supreme and district court judges, and a justice or judge of any other court may be censured, retired, or removed from his judicial office by a two-thirds vote of the membership of the judicial council for, but not limited to, the following:

1. Conviction in a court of this or any other state, or of the United States, of a crime punishable as a felony or a crime involving moral turpitude; or
2. Willful misconduct in a judicial office; or
3. Failure to perform judicial duties with reasonable dispatch; or
4. Habitual intemperance; or
5. Ceasing to be a resident of the state; or
6. Disability or incapacity seriously interfering with the performance of his duties and which is likely to be of a permanent nature; or
7. Lack of judicial competence in the performance of his duties.

The supreme and district court judges or the judicial council, whichever the case may be, may, after such investigations as they or it deems necessary, order a hearing to be held before them or it concerning the censure, retirement, or removal, of such justice or judge, or they or it may in their or its discretion request the supreme court to appoint three special masters, who shall be judges of courts of record, to hear and take evidence in any such matter and to report thereon to them or it. If, after hearing or after considering the record and report of the masters, they or it find good cause therefore, they or it shall order censure, retirement, or removal as the case may be, of the justice or judge. Upon an order for retirement, the justice or judge shall thereby be promptly removed from office and his salary shall cease from the date of such order. Retirement age, rights, privileges and benefits shall be as prescribed by law.

§ 8. Amendment.) The Constitution of the state of North Dakota shall be amended by adding thereto the following:

The state shall be divided into judicial districts as provided by law.

§ 9. Repeal.) Sections 88, 89, 92, 93, 95, 97, 98, 102, 104, 105, 106, 107, 108, 109, 112, 113, 114, 115, 116, 117, and 118 of the Constitution of the state of North Dakota are hereby repealed.

Filed March 16, 1967.

CHAPTER 518

HOUSE CONCURRENT RESOLUTION "A"

(Brown, Unruh)
(From LRC Study)

CONSTITUTIONAL REVISION

A concurrent resolution to amend and reenact sections 124, 125, 127, and 129, relating to the voting franchise and to repeal sections 122, 123, 126, and 128, relating to the voting franchise; to amend and reenact section 130, relating to municipal corporations; to repeal sections 132, 133, 135, 136, 137, 138, 140, 141, 142, 143, 144, 145 and 146, relating to other corporations; to repeal section 151, relating to education; to amend and reenact sections 153, 154, 155 and 156, relating to school and public lands and to repeal sections 157, 158, 159, 160, 161, 162, and 164, relating to school and public lands; to amend and reenact sections 168, 170, 172, and 173, relating to county and township organization and to repeal section 166, relating to county and township organization; to amend and reenact sections 176 and 179, relating to revenue and taxation; to amend and reenact sections 185 and 186, relating to public debt and public works; to repeal section 187 and Articles 59 and 65, relating to public debt and public works; to amend and reenact section 202, relating to methods of amending the state Constitution; to amend and reenact Article 33 of the Amendments, relating to recall provisions; to amend and reenact section 212, relating to the exchange "black lists"; to repeal sections 209 and 214, relating to the labor of children and original legislative apportionment; to amend and reenact section 215, relating to public institutions, and to repeal section 216 and Article 19 of the Amendments, relating to public institutions; to amend and reenact Article 54 of the Amendments, relating to the state board of higher education; to amend and reenact Article 56 of the Amendments, relating to gasoline taxes; and to repeal sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, and 26 of the Schedule to the Constitution of the state of North Dakota; all such sections and Articles of Amendments amended and repealed, being a part of the Constitution of the state of North Dakota.

Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That the following proposed new section, amendments, and repeals to the Constitution of the state of North Dakota are agreed to and shall be submitted to the qualified electors of the state of North Dakota for approval or rejection at the general election to be held in November, 1968, in accordance with the provisions of section 202 of the Constitution of the state of North Dakota, as amended:

§ 1. Amendment.) Section 124 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 124. A general election of the state shall be held biennially on the first Tuesday after the first Monday in November.

§ 2. Amendment.) Section 125 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 125. No elector shall be deemed to have lost his residence in this state solely by reason of his absence on business of the United States or of this state, or while serving as a member of the armed forces of the United States. Nor shall voting residence be gained solely in consequence of being stationed in this state as a member of the armed forces of the United States.

§ 3. Amendment.) Section 127 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 127. No person who is legally incompetent shall be qualified to vote at any election; nor shall any person convicted of a felony unless restored to civil rights.

§ 4. Amendment.) Section 129 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 129. All elections shall be by secret ballot, subject to such regulations as shall be provided by law.

§ 5. Amendment.) Section 130 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 130. Except in the case of home rule cities as provided in this section the legislative assembly shall provide by general law for the organization of municipal corporations, specifying their powers as to levying taxes and assessments, borrowing money, and contracting debts. Money raised by taxation, loan or assessment for any purpose shall not be diverted to any other purpose except by authority of law.

The legislative assembly shall provide by law for the establishment of home rule in cities. Home rule cities shall have all powers of self government except:

1. Those powers withheld from them by law;
2. Those powers not accepted by the city by its home rule charter; and
3. Those powers prohibited by this Constitution or the law of the land; provided that the legislative assembly shall

not be restricted in granting of home rule powers to home rule cities by section 183 of this Constitution.

§ 6. **Amendment.**) Section 153 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 153. All proceeds of the public lands that have heretofore been, or may hereafter be granted by the United States for the support of the common schools in this state; all such per centum as may be granted by the United States on the sale of public lands; property and the proceeds of property that shall fall to the state by escheat; all gifts, donations, or the proceeds thereof that come to the state for support of the common schools; or not otherwise appropriated by the terms of the gift, and all other property otherwise acquired for common schools, shall be and remain a perpetual trust fund for the maintenance of the common schools of the state. Only the interest and income of the fund may be expended and the principal shall be retained and devoted to the trust purpose. All property, real or personal, received by the state from whatever source, for any specific educational or charitable institution, unless otherwise designated by the donor, shall be and remain a perpetual trust fund for the creation and maintenance of such institution, and may be commingled only with similar funds for the same institution. Should a gift be made to an institution for a specific purpose, without designating a trustee, such gift may be placed in the institution's fund; provided that such a donation may be expended as the terms of the gift provide.

§ 7. **Amendment.**) Section 154 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 154. The interest and income of the common school fund together with the net proceeds of all fines for violation of state laws and all other sums which may be added thereto by law, shall be faithfully used and applied each year for the benefit of the common schools of the state, and shall be apportioned among the common school corporations of the state according to the number of children attending each public school within the state.

The interest and income of each institutional trust fund held by the state shall, unless otherwise specified by the donor, be appropriated by the legislative assembly each biennium to the exclusive use of the institution for which the funds were given.

§ 8. Amendment.) Section 155 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 155. The legislative assembly shall provide for the sale or lease of all properties held by the state in the school or other institutional trust funds at not less than fair market value; provided that in the sale of any such real estate the minerals, including but not limited to oil, gas, coal, cement materials, sodium sulphate, sand and gravel, road material, building stone, chemical substances, metallic ores, uranium ores, and colloidal or other clays, shall be reserved and excepted to the state of North Dakota. Leases may be executed by the state for the extraction and sale of such materials in the manner and upon such conditions as the legislative assembly may provide. The proceeds of all sales and leases shall be credited to the fund from which the property was removed for sale purposes.

§ 9. Amendment.) Section 156 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 156. The superintendent of public instruction, governor, attorney general, secretary of state and state auditor, shall constitute a board of commissioners, which shall be denominated the "board of university and school lands", and, subject to the provisions of this Article and any law that may be passed by the legislative assembly, said board shall have control of the appraisalment, sale, rental and disposal of all school, university, and institutional lands held in trust by the state under the authority of this Article, and shall direct the investment of the funds governed by this Article in the hands of the state treasurer as provided by law.

§ 10. Amendment.) Section 168 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 168. All changes in the boundaries of organized counties before taking effect shall be submitted to the electors of the county or counties, to be affected thereby at a general or statewide election and be adopted by a majority of all the legal votes cast in each county at such election; and in case any portion of an organized county is stricken off and added to another, the county to which such portion is added shall assume and be holden for an equitable proportion of the indebtedness of the county so reduced.

§ 11. Amendment.) Section 170 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 170. The legislative assembly shall provide by law for optional forms of government for counties in addition to the forms provided by sections 172 and 173 of the Constitution, and which may be adopted by a county when approved by the voters therein by a majority of the votes cast on the question.

§ 12. Amendment.) Section 172 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 172. Until one of the optional forms of county government provided by the legislative assembly be adopted by any county, the fiscal affairs of said county shall be transacted by a board of county commissioners.

§ 13. Amendment.) Section 173 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 173. There shall be elected in each county organized under the provisions of section 172 of the Constitution 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, or until such time as an optional form of government is accepted by the electorate and assumes the functions, and whose duties shall be provided by law; provided that 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.

§ 14. Amendment.) Section 176 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 176. Taxes shall be uniform upon the same class of property including franchises within the territorial limits of the authority levying the tax. The legislative assembly may by law exempt any or all classes of personal property from taxation and all fixtures, buildings and improvements upon land may be deemed personal property for exemption purposes. Property used exclusively for schools, religious, cemetery, charitable or other public purposes, unless held or used for profit, shall be exempt from taxation. Except as restricted by this Article, the legislative assembly may provide for raising revenue and fixing the situs of all property for the purpose of taxation.

§ 15. **Amendment.)** Section 179 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 179. All taxable property except as hereinafter in this section provided, shall be assessed in the taxing district in which it is situated. The property, including franchises of all railroads operated in this state, and of all express companies, freight line companies, dining car companies, sleeping car companies, car equipment companies, or private car line companies, telegraph or telephone companies, the property of any person, firm or corporation used for the purpose of furnishing electric light, heat or power, or in distributing the same for public use, and the property of any other corporation, firm or individual now or hereafter operating in this state, and used directly or indirectly in the carrying of persons, property or messages, shall be assessed by the state board of equalization in the manner provided by law. But should any railroad or public utility allow any portion of its railway or property to be used for any purpose other than the operation of a railroad or a public utility, such portion of its property, while so used shall be assessed in a manner provided for the assessment of other property.

§ 16. **Amendment.)** Section 185 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 185. The state or any of its political subdivisions may make internal improvements and may engage in any industry, enterprise, or business, except the alcoholic beverage business. Neither the state nor any political subdivision thereof shall otherwise loan or give its credit or make donations to or in aid of any individual, association or corporation except for reasonable support of the poor, nor subscribe to or become the owner of capital stock in any association or corporation; except that the state and any of its political subdivisions may enter into joint enterprises with each other in carrying out their public projects to the extent authorized by law.

§ 17. **Amendment.)** Section 186 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 186. (1) All public moneys of this state, except as provided in section 153 of this Constitution, shall be paid over monthly by the person receiving the funds to the state treasurer and deposited by him in the state treasury, and shall be paid out only pursuant to annual or biennial appropriations first made by the legislative assembly; provided that this section shall not apply to moneys for financial transactions of

the bank of North Dakota or the state mill and elevator association, and the legislative assembly may further exempt from this section the financial transactions of the commercial undertakings of the various state institutions. An appropriation need not be first made to allow disbursements from the state hail insurance fund, state bonding fund, state fire and tornado fund, workmen's compensation fund, or unemployment compensation fund, board of university and school lands investment funds or other funds authorized by law to be invested, retirement of bonds or other fixed obligations, public employee's retirement funds, allocation of state funds to political subdivisions, refunds authorized in any tax law, trust fund and trust fund income which is the result of private gifts if the terms of the gift provide for disbursement of the fund or its interest and income, and interest and income from retirement, insurance or similar trust funds, nor to license fees of any licensed trade or profession. When the provisions of this amendment become effective, all existing balances in funds not exempted from the provisions of this section shall be transferred to the state treasury.

(2) No bills, claims, accounts, or demands against the state or any county or other political subdivision shall be audited, allowed, or paid until a full itemized statement in writing shall be filed with the officer or officers whose duty it may be to audit the same, and then only upon warranty drawn upon the treasurer of such funds by the proper officer or officers.

§ 18. Amendment.) Section 202 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 202. Any amendment or amendments to the Constitution of the state may be proposed in either house of the legislature, and if the same shall be agreed to upon roll call by a majority of the members elected to each house, it shall be submitted to the electors and if a majority of the votes cast thereon are affirmative, such amendment shall become a part of this Constitution.

Amendments to the Constitution of the state may also be proposed by an initiative petition of the electors; such petition shall be signed by electors at large totaling five percent of the population of North Dakota as determined by the latest federal decennial census and shall be filed with the secretary of state at least one hundred twenty days prior to the election at which they are to be voted upon, and any amendment, or amendments so proposed, shall be submitted to the electors and become a part of the Constitution, if a majority of the votes cast thereon are affirmative. All provisions of the Constitution relating to

the submission and adoption of measures by initiative petition, and on referendum petition shall apply to the submission and adoption of amendments to the Constitution of the state.

The electorate through an initiated measure or the legislative assembly may at any time provide by law for a constitutional convention to amend or revise the Constitution. Such law shall provide for the submission of the proposed amendments from such convention directly to the electorate for their approval or rejection, and upon approval shall become effective in the same manner as other constitutional amendments or as specified in the amendments or revision.

If conflicting constitutional measures are approved at the same election the one receiving the highest number of affirmative votes shall prevail to the extent of such conflict.

§ 19. Amendment.) Article 33 of the Amendments to the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

ARTICLE 33. The qualified electors of the state or of any county, or of any congressional, judicial, legislative, or commissioner district may petition for the recall of any elective congressional, state, county, judicial or legislative officer by filing a petition with the officer with whom the petition for nomination to such office in the primary election is filed, demanding the recall of such officer. Such petition shall be signed by at least thirty percent of the qualified electors who voted at the preceding election for the office of governor in the state, county or district from which such officer is to be recalled. The officer with whom such petition is filed shall call a special election to be held not less than forty nor more than forty-five days from the filing of such petition.

The officer against whom such petition has been filed shall continue to perform the duties of his office until the result of such special election shall have been officially declared. Other candidates for such office may be nominated in the manner as is provided by law in primary elections. The candidate who shall receive the highest number of votes shall be deemed elected for the remainder of the term. The name of the candidate against whom the recall petition is filed shall go on the ticket unless he resigns within ten days after the filing of the petition. After one such petition and special election, no further recall petition shall be filed against the same officer during the term for which he was elected. This Article shall be self-executing and all of its provisions shall be treated as mandatory. Laws may be enacted to facilitate its operation, but no law shall be enacted to hamper, restrict or impair the right of recall.

§ 20. Amendment.) Section 212 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 212. The exchange of "black lists" between corporations shall be prohibited.

§ 21. Amendment.) Section 215 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 215. The following public institutions of the state are permanently located at the places hereinafter named. Each institution shall have the lands heretofore allocated to it by the United States, by the Constitution or laws of this state, or by private donation, and shall be disposed of and used as the legislative assembly may prescribe subject to the provisions contained in the grants thereof or as provided in this Constitution.

First: The seat of government at the city of Bismarck.

Second: The state university and the school of mines at the city of Grand Forks.

Third: The North Dakota state university of agriculture and applied science at the city of Fargo.

Fourth: State colleges at the cities of Valley City, Mayville, Dickinson, and Minot.

Fifth: A school for the deaf at the city of Devils Lake.

Sixth: A state industrial school at the city of Mandan.

Seventh: An educational or other institution as the legislature may provide at the cities of Ellendale, Bottineau, and Wahpeton.

Eighth: A state hospital for the mentally ill at the city of Jamestown.

Ninth: A state school for the mentally deficient at the city of Grafton.

Tenth: A state soldiers' home or such other institution as the legislative assembly may determine, at the city of Lisbon.

Eleventh: A state school for the blind at Grand Forks.

§ 22. Amendment.) 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. There shall be a state board of higher education which shall administer and control state-operated educational

institutions of higher learning. The board shall consist of seven members, with staggered seven-year terms, appointed by the governor, and confirmed by the senate in the manner provided by law. The board shall, in accordance with law, administer and formulate policy for all state-operated educational institutions of higher learning and shall appoint a state commissioner of higher education, who shall be the executive officer of the board and perform such duties as may be prescribed by the board.

§ 23. Amendment.) Article 56 of the Amendments to the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

ARTICLE 56. The revenue from excise taxes on gasoline and other motor fuels consumed by motor vehicles using the public highways of this state and revenue from the license taxation, registration and license taxes from such vehicles, after deduction of cost of administration and collection authorized by legislative appropriation only, and statutory refunds, shall be appropriated and used solely for construction, reconstruction, repair and maintenance of public highways, and the payment of obligations incurred in the construction, reconstruction, repair and maintenance of public highways.

§ 24. Repeal.) Sections 122, 123, 126, 128, 132, 133, 135, 136, 137, 138, 140, 141, 142, 143, 144, 145, 146, 151, 157, 158, 159, 160, 161, 162, 164, 166, 187, 209, 214, and 216 of the Constitution of the state of North Dakota; Articles 19, 59, and 65 of the Amendments to the Constitution of the state of North Dakota; and sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, and 26 of the Schedule to the Constitution of the state of North Dakota are hereby repealed.

Filed March 16, 1967.

CHAPTER 519

HOUSE CONCURRENT RESOLUTION "O"
(Link, Winge, Giffey, Streibel, Aamoth, Williamson,) (Solberg(9), Davis, Haugland)TERM OF LEGISLATORS AND MEETING OF
LEGISLATIVE ASSEMBLY

A concurrent resolution for the amendment of sections 41, 53, and 56 of the Constitution of the state of North Dakota, relating to commencement of the term of the members of the legislative assembly; meeting times of the legislative assembly; and providing for a pre-session orientation conference.

Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That the following proposed amendments to sections 41, 53, and 56 of the Constitution of the state of North Dakota are 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 September 1968, in accordance with the provisions of section 202 of the Constitution of the state of North Dakota, as amended:

§ 1. **Amendment.)** Section 41 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 41. The term of service of the members of the legislative assembly shall begin on the first day of December following their election, or at such other time as may be prescribed by law.

§ 2. **Amendment.)** Section 53 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 53. The legislative assembly shall meet at the seat of government in the month of December following the election of the members thereof for organizational and orientation purposes as provided by law and shall thereafter recess until twelve o'clock noon on the first Tuesday after the first Monday in January or at such other time as may be prescribed by law but not later than the eighth day of January.

§ 3. **Amendment.)** Section 56 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 56. Each session of the legislative assembly shall not exceed sixty legislative days, except in case of impeach-

ment. The organizational meeting of the legislative assembly as provided in section 53 shall not be counted as part of such sixty legislative days.

Filed March 16, 1967.

HOUSE RESOLUTIONS

HOUSE RESOLUTION No. 1

(Brown, Hilleboe)

RECORDS OF STATE MILL AND ELEVATOR

A resolution requesting the Speaker of the House to appoint a committee to inspect the records of the State Mill and Elevator and report their findings to the House of Representatives.

WHEREAS, there appears to be concern over the operation of the State Mill and Elevator; and

WHEREAS, the citizens of North Dakota who are the stockholders of the State Mill and Elevator are entitled to a complete accounting; and

WHEREAS, the House of Representatives desires to have all pertinent information necessary to analyze the operations of the State Mill and Elevator;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota:

That the Speaker of the House appoint a select committee of five House members and direct them to inspect the records of the State Mill and Elevator and report to the House of Representatives a complete and detailed report of the committee's findings respective to delinquent accounts and all charged-off accounts for the immediate previous ten years and any other information pertinent to the operations of the State Mill and Elevator.

Be It Further Resolved, that the committee be empowered to employ a certified public accountant for the period of said inspection.

Be It Further Resolved, that the select committee report their findings to the House of Representatives not later than the forty-fifth day of the Fortieth Legislative Session.

Filed February 1, 1967.

HOUSE RESOLUTION No. 2

(Burke, Stone, Opedahl)

OFFICIAL PHOTOGRAPHER

A resolution to appoint an official photographer for the House of Representatives of the Fortieth 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 Fortieth Legislative Assembly, size thirty-eight by forty-nine inches, composite framed and ready to hang; and one hundred six, eleven by fourteen inches, copies of said composite for each member and desk force of the House of Representatives; and one five by seven inch print of each representative for the State Historical Society, at a total cost of one thousand four hundred ninety-two 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 the Fortieth 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 Fortieth Legislative Assembly at a total cost of one thousand four hundred ninety-two dollars and fifty cents, to be taken out of legislative expenses.

Filed February 2, 1967.

HOUSE RESOLUTION No. 3

(Jones)

ACHIEVEMENTS OF R. D. MAGILL

A resolution recognizing the achievements and services of Mr. R. D. Magill in the livestock and agriculture industry.

WHEREAS, R. D. Magill, during his seventy-five years, has been one of the outstanding citizens of this nation in the field of livestock breeding; and

WHEREAS, R. D. Magill, as past president of the National Polled Shorthorn Breeders Association and the North Dakota Farm Bureau, has been extremely active in promoting livestock breeding and agriculture both on the state and national level; and

WHEREAS, R. D. Magill, although remaining unmarried, has aided five nephews to attend college and attain their degrees, and has thus assumed obligations normally carried out by parents; and

WHEREAS, R. D. Magill, is being honored during the Little International Livestock Show being held at North Dakota State University of Agriculture and Applied Sciences by having his portrait hung in the Hall of Fame of the University from which he graduated;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota:

That this body recognize the achievements of R. D. Magill and join in honoring and paying tribute to him for his contributions to the state and nation; and

Be It Further Resolved, that the Secretary of State forward a copy of this resolution to Mr. R. D. Magill.

Filed March 1, 1967.

HOUSE RESOLUTION No. 4

(Brown, Saugstad, Link, Aamoth, Solberg(9), Streibel, Haugland)

DEDICATION OF FLAG TO RUTH SMITH

A resolution providing for the placement of a North Dakota State flag in the chambers of the House of Representatives and dedicating such flag in honor of desk reporter Mrs. Ruth Smith.

WHEREAS, Mrs. Ruth Smith, has served the State of North Dakota, the Legislative Assembly, and particularly the House of Representatives during a period of many years; and

WHEREAS, her dedication and skill in the performance of her many duties as desk reporter have materially contributed to the efficient functioning of the House of Representatives; and

WHEREAS, it is the desire of the House of Representatives to formally recognize the respect, and high esteem, and affection in which Mrs. Smith is held by all its members and express the appreciation of the House of Representatives to Mrs. Smith;

Now, Therefore, Be It Resolved by the House of Representatives:

That a flag of the State of North Dakota be placed upon the rostrum in the chambers of the House of Representatives where Mrs. Smith has so ably served this legislative body and that such flag be dedicated to Mrs. Smith as a continuing symbol of the respect, esteem, and affection of the House of Representatives and its members; and

Be It Further Resolved, that a copy of this resolution be presented to Mrs. Ruth Smith by the Speaker in the presence of the members of the House of Representatives.

Filed February 21, 1967.

HOUSE CONCURRENT RESOLUTIONS

HOUSE CONCURRENT RESOLUTION "B"

(Bier, Giffey, Mueller, Winge)
(From LRC Study)

CONSTRUCTION OF WEATHER-PROTECTIVE RECREATION BUILDINGS

A concurrent resolution urging the Bureau of Outdoor Recreation and the North Dakota congressional delegation to advocate for the inclusion of provisions within the Land, Water, and Conservation Fund Act which would make possible the construction of weather-protective buildings specifically equipped to provide year-around indoor recreation activities free from uncertain weather conditions.

WHEREAS, the Bureau of Outdoor Recreation, representing the Federal Government, has entered into a program of outdoor recreation through a system of grants-in-aid; and

WHEREAS, an extension of this program is needed in the northern tier of States whereby such sports as ice skating, hockey, curling, swimming, etc., may be continuing recreation activities without climatic interruption; and

WHEREAS, recreation activities herein described are needed in the northern climate to provide the residents of these areas with a seasonally balanced recreation program;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That the Bureau of Outdoor Recreation and the congressional delegation of North Dakota are respectfully urged to advocate for the inclusion of provisions within the Land, Water, and Conservation Fund Act which would make possible the construction of weather-protective buildings specifically equipped to provide year-around indoor reservation activities free from uncertain weather conditions; and

Be It Further Resolved, that a copy of this resolution be forwarded to the Honorable Stewart Udall, Secretary of the Interior; Dr. Edward C. Crafts, Director, Bureau of Outdoor Recreation; and the North Dakota congressional delegation.

Filed February 21, 1967.

HOUSE CONCURRENT RESOLUTION "D"

(Brown, Streibel, Link)

ADDRESS OF LOUIS W. MENK

A concurrent resolution inviting Mr. Louis W. Menk to address members of the Fortieth Legislative Assembly.

WHEREAS, Mr. Louis W. Menk, President of the Northern Pacific Railway, will be present in Bismarck on February 2, 1967; and

WHEREAS, the members of the Fortieth Legislative Assembly rarely have an opportunity to be addressed by a man of Mr. Menk's experience and stature; and

WHEREAS, the State of North Dakota and its citizens have a vital interest in the problems and progress of the railroad industry;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That Mr. Louis W. Menk, President of the Northern Pacific Railway, be extended an invitation to appear before and address a joint session of the Fortieth Legislative Assembly of North Dakota at two o'clock p.m. on February 2, 1967.

Filed January 13, 1967.

HOUSE CONCURRENT RESOLUTION "E"

(Streibel, Link)

APPRECIATION TO PARTICIPANTS OF INAUGURATION PROGRAM

A concurrent resolution expressing appreciation to the Adjutant General, the National Guard, Francis Elliott, and Gilbert Gervais, the University Bards directed by Mr. James T. Fudge, the Bismarck High School Symphonettes directed by Mr. Harold Van Heuvelen, the Bismarck High School Swing Band directed by Mr. Gordon Knaak, and the Governor's Reception Committee for their activities in making the inauguration activities a success.

WHEREAS, Major General LaClair Melhouse, North Dakota Adjutant General, and the North Dakota National Guard have for many sessions handled the state officials' inaugural program in a most commendable manner; and

WHEREAS, they have again on January 4, 1967, performed these duties with finesse, dignity, and courtesy; and

WHEREAS, Mr. Francis Elliott, Mr. Gilbert Gervais, the University Bards and Mr. James T. Fudge, the Bismarck High School Symphonettes and Mr. Harold Van Heuvelen, and the Bismarck High School Swing Band and Mr. Gordon Knaak performed with dignity and excellence as a vital part of the joint session of the Fortieth Legislative Assembly held on January 4, 1967; and

WHEREAS, the Governor's Reception Committee planned and made the Governor's reception an outstanding event;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That the Fortieth Legislative Assembly of the State of North Dakota does hereby express its thanks and appreciation to Major General LaClair Melhouse, the National Guard, Mr. Francis Elliott, Gilbert Gervais, the University Bards and Mr. James T. Fudge, the Bismarck High School Symphonettes and Mr. Harold Van Heuvelen, the Bismarck High School Swing Band and Mr. Gordon Knaak, and the Governor's Reception Committee and to all others who furnished numbers for the programs for 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 by the Secretary of State to Major General LaClair Melhouse, Mr. Francis Elliott, Mr. Gilbert Gervais, Mr. James T. Fudge, Mr. Harold Van Heuvelen, Mr. Gordon Knaak, and the Chairman of the Governor's Reception Committee.

Filed February 21, 1967.

HOUSE CONCURRENT RESOLUTION "F"

(Streibel, Link)

ADDRESS OF FLOYD E. DOMINY

A concurrent resolution inviting the Honorable Floyd E. Dominy, National Commissioner, Bureau of Reclamation, Department of Interior, to address the Legislative Assembly of the State of North Dakota meeting in joint session.

WHEREAS, the Honorable Floyd E. Dominy, National Commissioner, Bureau of Reclamation, Department of Interior, has accepted an invitation of the North Dakota Water Users' Association for a speaking engagement on January 16, 1967; and

WHEREAS, North Dakota has a great interest in the development, use, and preservation of water resources during the present and future years; and

WHEREAS, the knowledge, background, and information that the Honorable Floyd E. Dominy possesses in regard to the water problems facing the nation and North Dakota would be especially interesting to the Fortieth Legislative Assembly 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 Honorable Floyd E. Dominy be and is hereby extended an invitation to appear before a joint session of the Fortieth Legislative Assembly of the State of North Dakota at such time as may be arranged on January 16, 1967, for the purpose of addressing the members of said body; and

Be It Further Resolved, that copies of this resolution be forwarded to the Honorable Floyd E. Dominy and the President of the North Dakota Water Users' Association.

Filed January 16, 1967.

HOUSE CONCURRENT RESOLUTION "G"

(Aamoth, Boustead, Brown, Bullis, Burke, Davis, Halcrow,
Hilleboe, Jones, Mueller, Streibel, Tweten, Wagner, Sandness)

COMMENDATION OF SENATOR MILTON R. YOUNG

A concurrent resolution commending Milton R. Young, Senior Senator from North Dakota, on the twenty-second anniversary of his dedicated, devoted and loyal service for the State of North Dakota and our nation.

WHEREAS, on March 12th, 1967, Milton R. Young will have served in the United States Senate with distinction for twenty-two years; and

WHEREAS, his affable personality, youthful vigor and dedication to the high office he holds, and his outstanding abilities have rewarded him the respect, confidence and trust of not only his colleagues but that of our nation's leaders, both civilian and armed forces, and the leaders of our foreign allies; and

WHEREAS, he is the senior member of the Republican Party on the Appropriations Committee, the second in seniority on the Agricultural Committee, a 1966 subcommittee of appropria-

tions, agriculture, defense, deficiency and supplementals independent offices, subcommittee of interior, and the legislative branch of public works and C.I.A.; and

WHEREAS, he was the prime instigator of legislation that gave North Dakota the Garrison Dam, Missouri River Diversion and Water Resources Development programs; and

WHEREAS, he served one term in the North Dakota House of Representatives, 1933-34, and continuously in the North Dakota Senate from 1934 until he resigned in March 1945, when he accepted the appointment to the U.S. Senate to fill the vacancy due to the death of the late John Moses. As a member of the North Dakota Senate, he was honored by being elected President pro-tem in 1941, and floor leader in 1943; and

WHEREAS, he was elected in the special election in June 1946, to serve the five years' unexpired term of the deceased John Moses; and

WHEREAS, the citizens of North Dakota, by overwhelming majorities, have re-elected him to three consecutive six-year terms in the United States Senate; and

WHEREAS, with each succeeding year, Milton R. Young, by his physical stamina, conscientious regard for the well-being of his State and nation and their citizens, has expanded in stature and respect, by all with whom he represents and associates;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That Milton R. Young be given our vote of confidence and that Providence may allow us the good fortune of many more years of devoted, dedicated, and loyal service from him;

Be It Further Resolved, that this resolution be printed in the journal and that a properly authenticated copy be sent by the Secretary of State to Milton R. Young, Senior United States Senator from North Dakota.

Filed January 18, 1967.

HOUSE CONCURRENT RESOLUTION "H"

(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 Fortieth Legislative Assembly of the State of North Dakota, the Senate Concurring Therein:

That for and during this Fortieth Legislative Assembly the following named persons be employed and appointed as officers and employees of the House and Senate and shall be paid their per diem set opposite their respective names, as per the date of their employment as recorded in the journal:

House

Roy Gilbreath, chief clerk.....	\$25.00
Robert Miller, assistant chief clerk.....	20.00
Ruth Smith, desk reporter.....	25.00
ElaNor Weber, assistant reporter.....	20.00
E. A. Tough, bill clerk.....	17.00
Alfred Hetland, calendar clerk.....	17.00
Ernest Benser, sergeant-at-arms.....	15.00
Jonas Johnson, deputy sergeant-at-arms.....	13.00
Julius Sukut, assistant sergeant-at-arms.....	12.00
George Hektner, assistant sergeant-at-arms.....	12.00
Pius Reis, assistant sergeant-at-arms.....	12.00
Henry Benson, assistant sergeant-at-arms.....	12.00
Jack Tully, superintendent of personnel.....	20.00
Mavis Patchen, chief stenographer and payroll clerk	20.00
Eva Braaten, stenographer.....	16.00
Veronica Sauter, stenographer.....	16.00
Margrette J. Aird, stenographer.....	16.00
Mary Ann Schmaltz, stenographer.....	16.00
Gladys Van Vleet, stenographer.....	16.00
Bernadine Mitzel, stenographer.....	16.00
Mrs. Alvin Dahl, typist.....	14.00
Vendla Vitalis, typist.....	14.00
Ailon Norton, typist.....	14.00
Doris Thomas, chief committee clerk.....	18.00
Colleen Bader, appropriations committee clerk.....	16.00
Maude Grambs, committee clerk.....	14.00
Hazel Davenport, committee clerk.....	14.00
Kathy Mayer, committee clerk.....	14.00
Marian Ehli, committee clerk.....	14.00

Lela Knudsen, committee clerk.....	14.00
Ellen Davis, secretary to speaker.....	16.00
Marlys Fleck, secretary to majority floor leader....	16.00
Corliss Mushik, secretary to minority floor leader....	16.00
Mrs. Harold Moos, enrolling and engrossing clerk....	14.00
Vonnie Wold, enrolling and engrossing clerk.....	14.00
Clara Wendt, chief page.....	15.00
Mildred Weishaar, page.....	12.00
Mrs. Eugene Weekes, page.....	12.00
Tom Tudor, page.....	12.00
Delano Wawers, page.....	12.00
Karen Adam, page.....	12.00
Mrs. Gary Cleveland, bill book clerk.....	12.00
James Moore, bill book clerk.....	12.00
Mrs. Kathleen Robey, bill book clerk.....	12.00
Joseph Kautzman, bill book clerk.....	12.00
Mrs. Dick Dougan, postmistress.....	12.00
Ruth McCormick, assistant postmistress.....	12.00
Enola Eck, telephone operator.....	12.00
Mrs. Robert Langford, telephone attendant.....	12.00
Jane Harrison, information desk.....	12.00
David Holt, chief journal room.....	14.00
George Jahner, journal room clerk.....	12.00
Frank Nilep, journal room clerk.....	12.00
Oluf Grunstad, journal room clerk.....	12.00
Floyd Ettestad, bill room clerk.....	12.00
Mrs. Pearl Andre, bill room clerk.....	12.00
Mrs. Walter Bubel, chart room clerk.....	12.00
Chris Mostad, chart room clerk.....	12.00
Mrs. Dorothy Plews, proofreader.....	15.00
Mrs. Marshall Murdoch, proofreader.....	15.00
Wilbur Tracy, audio board operator.....	15.00
Edwin Fisher, parking lot attendant.....	14.00

Senate

Leo Leidholm, secretary.....	25.00
Dagney Olson, desk reporter.....	25.00
Arthur Herk, assistant secretary.....	20.00
William Brown, bill clerk.....	17.00
Cora Essington, chief stenographer and payroll clerk.....	20.00
Lois Scherr, chief committee clerk.....	18.00
Lyness Lloyd, calendar clerk.....	17.00
Yvonne Mushik, enrolling and engrossing clerk....	14.00
John Leier, superintendent of employees.....	20.00
Belle Irene Moore, secretary to the president.....	16.00
Donna Heisler, secretary to majority floor leader....	16.00
A. E. Bradley, sergeant-at-arms.....	15.00
Robert Ellsworth, deputy sergeant-at-arms.....	13.00

R. H. Jagd, assistant sergeant-at-arms.....	12.00
Richard Thompson, assistant sergeant-at-arms.....	12.00
Ardell Johnson, assistant sergeant-at-arms.....	12.00
Nick Frank, assistant sergeant-at-arms.....	12.00
Marion Arenstein, information desk.....	12.00
Fred Krause, Jr., journal room clerk.....	12.00
Alta Harens, journal room clerk.....	12.00
Iver Kval, parking lot attendant.....	14.00
William Urlacher, bill room clerk.....	12.00
Richard Wittmayer, bill room clerk.....	12.00
Shirley Shaw, stenographer.....	16.00
Eleanor Oeder, stenographer.....	16.00
Darlene Clausnitzer, typist.....	14.00
David Bilden, supply room attendant.....	12.00
Angeline Stein, appropriations committee clerk.....	16.00
Della Erickson, committee clerk.....	14.00
Pearl Engen, committee clerk.....	14.00
Dormilee Diede, committee clerk-steno.....	15.00
Eunice Anderson, enrolling and engrossing clerk.....	14.00
Ronald Anderson, page.....	12.00
Nolan Fjeldahl, page.....	12.00
Mary K. Blandon, page.....	12.00
Celia Fowler, telephone attendant.....	12.00
Frieda Schlaht, telephone attendant.....	12.00
Emil Albrecht, bill book clerk.....	12.00
Curtis Kranz, bill book clerk.....	12.00
Wanda Froelich, bill book clerk.....	12.00
Sam Labrenz, bill book clerk.....	12.00
Bernice Sailer, chart room attendant.....	12.00
Vi DeForest, postmistress.....	12.00
Hazel Ludemann, journal room attendant.....	12.00
Karen Fraser, secretary to minority floor leader....	16.00
Susan Rivinius, Donnette Schramm, Linda Larson, Larry Watson, David Soma, Marc Homme, pages each to receive equal portions of.....	12.00
Marie Skjod, proofreader.....	15.00
Elma Schrammen, proofreader.....	15.00
Inez Schneider, stenographer.....	16.00

Filed January 23, 1967.

HOUSE CONCURRENT RESOLUTION "T"

(Halcrow, Metzger, Connolly, Burke)

INCENTIVE SYSTEM IN PUBLIC AND PRIVATE
EMPLOYMENT

A concurrent resolution relating to the incentive system for the payment of salaries and wages in public and private employment.

WHEREAS, the incentive system of payment of salaries and wages, which has as its objective the reward of individuals who perform their work in a superior way, has been a part of the free enterprise system of this country and has been responsible for much of our production capacity and growth as a nation; and

WHEREAS, the principles upon which the incentive system of salaries and wages is based can and will continue to promote economic and material growth and a successful and productive society;

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 that it is the continuing public policy of this State to support and encourage the use of the incentive system for the payment of salaries and wages in both public and private employment, and that all officers and governing bodies of this State and its political subdivisions are urged and directed to adopt no policies to the substantial detriment of the incentive system, and that all private employers are urged to make full use of the incentive system in order to promote the continued strength and growth of this State.

Filed March 1, 1967.

HOUSE CONCURRENT RESOLUTION "J"

(Allen, Peterson(5), Sanstead, Williamson, Aamoth, Aas,
(Saugstad, Haugland, Link, Peterson(1), Streibel)

PROGRESS OF GARRISON DIVERSION PROJECT

A concurrent resolution expressing approval of the manner in which progress towards the Garrison Diversion is being undertaken.

WHEREAS, North Dakotans have long realized that the greatest need of their State is a stability of population; and

WHEREAS, a study just completed has indicated that North Dakota suffered a net loss of forty-six thousand persons through migration during the last six years, which amount is equivalent to the population of Fargo, the largest city in the State; and

WHEREAS, since 1944, when the Pick-Sloan plan was authorized, North Dakotans have worked diligently and waited patiently for their share of benefits of such project through diversion and irrigation, in full agreement that it would be a key factor in stabilizing the population of this rural-orientated State; and

WHEREAS, Congress has authorized the Garrison Diversion Project and has voted the initial construction funds, and counties in the Garrison Diversion Conservancy District are now levying taxes at the rate of one mill to assist in local costs and expedite construction;

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, does hereby express its appreciation and full accord with the orderly progress of this highly essential project and the timetable which has been established by the Bureau of Reclamation; and

Be It Further Resolved, that copies of this resolution be forwarded by the Secretary of State to members of the North Dakota congressional delegation, and to the Secretary of the Interior, Mr. Stewart Udall.

Filed March 16, 1967.

HOUSE CONCURRENT RESOLUTION "K"

(Connolly, Hickle, Williamson, Glaspey, Sanstead)

LRC STUDY OF STRIP AND SURFACE MINING

A concurrent resolution directing a study by the Legislative Research Committee for the purpose of recommending legislation which will facilitate and enable the rehabilitation and reclamation of strip and surface mining areas in North Dakota.

WHEREAS, the vast deposit of lignite underlying the State of North Dakota is one of its most valuable natural resources and one of its greatest assets, and

WHEREAS, the development of these lignite deposits will contribute greatly to the economic welfare and prosperity of the people of this State through the attraction of new industry to the State and will assist in the expansion of existing industry, and

WHEREAS, it is the policy of this State that the development of these lignite deposits be encouraged and that such development be brought about at the earliest possible date and in a manner most beneficial to the people of this State, and

WHEREAS, many lignite deposits are susceptible to development by strip and surface mining methods and, in fact, due to other factors, certain of these deposits can be developed economically only by strip and surface mining methods, and

WHEREAS, any undesirable results from strip and surface mining can to a great extent be prevented or avoided by a proper program of reclamation in those areas where strip and surface mining are being conducted, and

WHEREAS, it is to the benefit of this State to provide for and encourage reclamation of these areas;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That this legislative assembly hereby authorizes and directs the Legislative Research Committee to make a study for the purpose of recommending legislation which will facilitate and enable the rehabilitation and reclamation of strip and surface mining areas in North Dakota, and that the committee may appoint by invitation the following advisors:

1. Three representatives of the lignite industry in North Dakota.

2. A representative of the Board of Directors of the North Dakota Association of Soil Conservation Districts.
3. A representative of the State Soil Conservation Committee.
4. A representative of the State Game and Fish Department.
5. A representative of the State Geological Survey.
6. A representative of the State Mine Inspector's Office.
7. A representative of the Board of County Commissioners of one of the major coal producing counties.
8. A representative of the Agriculture Experiment Station, and that such study and recommendation shall include but not be limited to a consideration of the following matters:
 1. The nature and extent of strip and surface mining operations in North Dakota and the conditions resulting therefrom.
 2. The ownership of the real property involved in strip and surface mining operations.
 3. Review of present legislation which may retard incentive of the lignite industry to rehabilitate and reclaim mined lands and the effectiveness of past and present voluntary action on the part of the lignite industry to promote beneficial use of areas where strip and surface mining have been conducted.
 4. The public interest in and public benefits which may result from reclamation, rehabilitation, and appropriate development and use of areas subjected to strip and surface mining operations, including:
 - a. Economic development growth, including associated benefits of employment and economic returns to local communities.
 - b. Public recreation.
 - c. Highway programs.
 - d. Fish and wildlife protection and restoration.
 - e. Scenic values.
 - f. Forestry and agriculture.
 5. The appropriate roles of the State and private interests in the reclamation and rehabilitation of strip and surface mining areas and the relative cost, if any, to be borne by each, including specific consideration of the extent to which

the prospective value of lands and other natural resources, after remedial work has been completed, would be inadequate to justify the landowners doing the remedial work at their expense.

6. The object of a program for accomplishing the reclamation and rehabilitation of strip and surface mine areas, giving adequate consideration to:

- a. The economic benefits in relation to cost.
- b. The highest use of reclaimed and rehabilitated areas in relation to cost.
- c. The avoidance of unwarranted financial gain of private owners of such improved property.

Be It Further Resolved, that the committee or a subcommittee appointed by it shall meet with its advisors at least three times and shall make at least one field trip to the major strip and surface mining areas in the State during the two-year period and shall report its findings and recommendations to the Forty-first Legislative Assembly, accompanied by suitable legislation to carry out such recommendations.

Filed February 21, 1967.

HOUSE CONCURRENT RESOLUTION "L"

(Aamoth, Haugland, Halcrow, Froelich, Streibel, Welder,
(Unruh, Davis, Jenkins)

STATE INSTITUTION STUDY OF STATE BOARD OF HIGHER EDUCATION

A concurrent resolution directing the State Board of Higher Education to prepare a long-range ten-year plan for capital improvements at State institutions under its jurisdiction, to prepare a plan for the maximum utilization of classrooms and physical facilities, to prepare a plan for the elimination of unjustified and duplicate programs, to prepare a plan and establish the use and purpose for which each institution under its jurisdiction is intended, and to report on such plans to the Subcommittee on Budget of the Legislative Research Committee by no later than December 1, 1968, and to the Forty-first Legislative Assembly.

WHEREAS, sound management practices and the pressing financial needs of the State are such as to require a long-range plan under definite criteria for capital improvements at State institutions, with priorities established for each improvement; and

WHEREAS, more efficient use of existing physical facilities might delay the need for certain capital improvements and thereby release moneys for more pressing needs; and

WHEREAS, some economy might be achieved through the elimination of duplicate programs and programs which are unjustified on the basis of the per-pupil cost, enrollment demand, or availability in schools in other States; and

WHEREAS, future planning would be facilitated if a program of planned use and purpose of each institution under the jurisdiction of the State Board of Higher Education were developed;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That the State Board of Higher Education is hereby directed to prepare a long-range ten-year plan for capital improvements at State institutions under the jurisdiction of the State Board of Higher Education, to prepare a plan for the maximum utilization of classrooms and physical facilities, to prepare a plan for the elimination of unjustified and duplicate programs, to prepare a plan and establish the use and purpose for which each institution under their jurisdiction is intended, and to report on such plans to the Subcommittee on Budget of the Legislative Research Committee by no later than December 1, 1968, and to the Forty-first Legislative Assembly.

Filed March 16, 1967.

HOUSE CONCURRENT RESOLUTION "M"

(Dornacker, Streibel)

RETURN OF FEDERAL INCOME TAX REVENUE TO STATES

A concurrent resolution urging the Congress of the United States to pass enabling legislation authorizing the remittance of up to ten percent of federal income taxes paid by each State to the State where such revenue originates.

WHEREAS, the Congress of the United States has been continually increasing the federal share of the tax dollars normally available to the States; and

WHEREAS, the States are greatly restricted by the lack of funds to perform functions ordinarily reserved to the States; and

WHEREAS, if more revenue sources were available to the States they would be willing and able to adequately perform functions which are better performed on the State level;

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 pass enabling legislation which would authorize the return by the Federal Government of three percent of the revenue gained from the State through the federal income tax to the States in the year 1967, and that a one percent increase in such remittance be made in each year thereafter until the amount remitted by the Federal Government shall equal ten percent of the federal income tax revenue received by the Federal Government from the States, and this money shall be returned to the States using a formula which will reflect population and the effort of the State and its political subdivisions in meeting the expenses of government on a State and local basis; and

Be It Further Resolved, that such amounts remitted to the States be deposited in each State's general fund to be used for general governmental purposes; and

Be It Further Resolved, that the Secretary of State be directed to forward a copy of this resolution to each member of the North Dakota congressional delegation.

Filed March 16, 1967.

HOUSE CONCURRENT RESOLUTION "P"

(Wilkie, Williamson, Jones, Kingsbury, Giffey, Boyum,
Simonson, Burke, Erickson(4), Lillehaugen)

FISCAL RELATIONSHIP OF STATES AND
FEDERAL GOVERNMENT

A concurrent resolution urging the President and the Congress to review the fiscal relationships of the several States and the Federal Government.

WHEREAS, the imposition of the income tax by the Federal Government has largely pre-empted use of this tax most responsive to the growing economy, and

WHEREAS, the Federal Government has increased its grants-in-aid programs to the States and their political subdivisions extensively in recent years, and

WHEREAS, the use of categorical grants-in-aid has resulted in the development of unwieldy and cumbersome methods of control, costing federal taxpayers excessive amounts of money for duplicate administration, and

WHEREAS, many categorical grants are offered on the basis of general needs and, in many cases, fail to recognize the level of specific needs in existence in each State, thereby leaving some needs unmet while overspending in others, and

WHEREAS, the methods by which categorical grants are provided and administered and the methods by which the Federal Government shares tax revenues with State and local governments require review and redirection;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That the scores of federal grants-in-aid being offered to States and political subdivisions should be grouped into general categories (block grants), such as education and conservation, so that the States will be able to meet the most pressing needs in those general categories and thereby achieve greater fulfillment of congressional intent than is now possible;

That greater emphasis be placed on revenue-sharing programs, whereunder the States share in growing federal revenues on the basis of formulas that recognize local tax effort and needs arising out of the geographic and demographic characteristics of each State;

Be It Further Resolved, that copies of this resolution be forwarded by the Secretary of State to the President of the United States, members of the North Dakota delegation to both Houses of Congress, and the Governor of the State of North Dakota.

Filed March 16, 1967.

HOUSE CONCURRENT RESOLUTION "T"

(Freeman, Streibel, Link)

CANADIAN CENTENNIAL

A concurrent resolution commending the great nation of Canada for her one hundred years of progress in this her Centennial Year 1967.

WHEREAS, on July 1, 1867, the new nation of Canada was formed; and

WHEREAS, Canada and the United States have the longest undefended border in the world, a border marked not by armaments but by a beautiful Peace Garden which is located between the two countries and lies in Manitoba, one of the Provinces of Canada, and North Dakota, one of the States of the United States; and

WHEREAS, this border is also shared by the Canadian Province of Saskatchewan and the State of North Dakota; and

WHEREAS, the citizens of North Dakota take much pride in friendly association with the citizens of these two great border provinces and the great nation of which they are a part; and

WHEREAS, Canada in 1967 celebrates her Centennial Year with an International Exhibition—EXPO '67—in her historic city of Montreal and with many other important events throughout her nation;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That Canada, as a nation, and her citizens, as a people, be commended for their great progress in all fields of human endeavor and for the high honor, respect, and esteem in which they are held by their neighbors, the citizens of the State of North Dakota;

Be It Further Resolved, that this resolution be printed in the journal and that a properly enrolled copy be sent by the Secretary of State to:

The Honorable Lester B. Pearson, Prime Minister of Canada;

The Honorable Dufferin Roblin, Premier of the Province of Manitoba;

The Honorable W. R. Thatcher, Premier of the Province of Saskatchewan;

The Legislative Assembly, Province of Manitoba;

The Legislative Assembly, Province of Saskatchewan.

Filed February 4, 1967.

HOUSE CONCURRENT RESOLUTION "V"

(Saugstad, Solberg(9))

MARKING OF HISTORICAL SITES ALONG
LEWIS AND CLARK TRAIL

A concurrent resolution relating to the marking of historical, archaeological, and paleontological sites along the Lewis and Clark Trail and periodic on-site inspections thereof.

WHEREAS, the lands adjacent to the Missouri River and Garrison and Oahe Reservoirs are rich in historical, archaeological, and paleontological sites; and

WHEREAS, many of these sites are in danger of being exploited by persons untrained in archaeological values; and

WHEREAS, many of these sites are in lands under the jurisdiction of the Army 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 Fortieth Legislative Assembly request the Army Corps of Engineers to protect such sites along the Lewis and Clark Trail in North Dakota by posting signs that inform the public of the value of the sites and the need for preserving such sites; and

Be It Further Resolved, that the Army Corps of Engineers provide periodic on-site inspections of the said areas; and

Be It Further Resolved, that the Secretary of State forward copies of this resolution to the Chief of the Army Corps of Engineers and to each member of the North Dakota congressional delegation.

Filed February 4, 1967.

HOUSE CONCURRENT RESOLUTION "W"

(Saugstad, Unruh, Aas)

LRC STUDY OF EMINENT DOMAIN LAWS

A concurrent resolution directing the Legislative Research Committee to conduct a study of the eminent domain laws and judicial decisions in this State relating thereto and the practices of land appraisals connected therewith, for the purpose of determining the advisability of revising such laws, and to prepare appropriate bills for submission to and consideration by the Forty-first Legislative Assembly.

WHEREAS, many of the laws and decisions relating to the acquisition of property by eminent domain proceedings have been rendered obsolete by constitutional amendment, particularly as they relate to the acquisition of right-of-way; and

WHEREAS, quite generally this power is exercised in connection with federally assisted projects, wherein regulations relating to procedure as well as determination of rules of compensability required by federal authorities are often inconsistent with laws of this State; and

WHEREAS, the methods and procedures of land appraisals are closely related to such eminent domain procedures;

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 such study as may be necessary of the laws, the judicial decisions, and the practices of those agencies concerned with the acquisition of property by eminent domain and the procedures and methods of land appraisals connected therewith; and

Be It Further Resolved, that the Legislative Research Committee make its report and recommendations thereon to the Forty-first Legislative Assembly, together with any legislation required to carry out such recommendations.

Filed March 16, 1967.

HOUSE CONCURRENT RESOLUTION "X"

(Saugstad, Davis, Connolly)

MARKING OF TAKING LINE FOR GARRISON AND
OAHE RESERVOIRS

A concurrent resolution requesting that the taking line for the Garrison and Oahe Reservoirs be surveyed and marked as soon as possible.

WHEREAS, there is considerable confusion to private land-owners and State agencies concerning the taking lines established by the Army Corps of Engineers on the lands adjacent to Garrison and Oahe Reservoirs;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That the Fortieth Legislative Assembly request the Army Corps of Engineers to survey and mark as soon as possible the taking lines on both sides of Garrison and Oahe Reservoirs and all other reservoirs under the jurisdiction of the Army Corps of Engineers that may be created in the future; and

Be It Further Resolved, that the Secretary of State forward copies of this resolution to the Chief of the Army Corps of Engineers and to each member of the North Dakota congressional delegation.

Filed March 1, 1967.

HOUSE CONCURRENT RESOLUTION "Y"

(Aafedt, Allen, Backes, Haugland, Hilleboe, Metzger, Sanstead,
(Williamson))

WORKMEN'S COMPENSATION STUDY

A concurrent resolution directing the North Dakota Workmen's Compensation Bureau to conduct a study of possible formulas that would provide a ratio of benefits to the average weekly wage or the cost of living raises.

WHEREAS, the present average weekly wage in North Dakota is almost \$100.00, and

WHEREAS, the maximum workmen's compensation for a workman injured after July 1, 1965, is \$50.00, and

WHEREAS, the weekly compensation for workmen, their dependents and survivors injured previous to July 1, 1965, is, in most cases, substantially lower, and

WHEREAS, unemployment compensation, many private businesses, and many workmen's compensation jurisdictions are tying benefits to the cost-of-living index or the average weekly wage, providing for automatic increases;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That the North Dakota Workmen's Compensation Bureau is hereby directed to conduct a study of possible formulas that would provide for a ratio of benefits to the average weekly wage or the cost-of-living increases for all beneficiaries, regardless of the year of injury; results of such study shall be submitted to the Legislative Research Committee on or before July 1, 1968.

Filed March 3, 1967.

HOUSE CONCURRENT RESOLUTION "Z"

(Streibel, Link)

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.

Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

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 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; and

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 16, 1967.

HOUSE CONCURRENT RESOLUTION "A-1"

(Williamson, McDonald(21))

MODIFICATION OF CAPITOL BUILDING FOR USE
OF HANDICAPPED

A concurrent resolution directing the Board of Administration to modify certain portions of the State capitol building to make such building more accessible and usable by the physically handicapped.

WHEREAS, the Thirty-ninth Legislative Assembly passed a law which directed that all public buildings constructed with public moneys shall take into consideration the needs of the physically handicapped and as far as is feasible to make such buildings and their facilities accessible to and, usable by, physically handicapped persons; and

WHEREAS, the State capitol building, which houses the central administration of our State Government, is not fully accessible to and usable by many physically handicapped persons; and

WHEREAS, the State capitol building should be made accessible and usable by any or all of the citizens of our State, regardless of their physical handicap;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That the State Board of Administration is hereby directed to comply with the provisions of section 48-02-18 of the North Dakota Century Code and to specifically install permanent and skidproof ramps with handrails at the west entrance to the capitol building and at the two step areas on the ground floor of such building, and shall investigate the possibility of installing automatic pneumatic or other mechanically operated doors at the west end entrance and that the lavatory facilities on the ground floor be made accessible to the physically handicapped; and

Be It Further Resolved, that the Board of Administration use the "American Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by the Physically Handicapped" for all such modification projects provided for by this resolution.

Filed March 16, 1967.

HOUSE CONCURRENT RESOLUTION "B-1"

(Committee on Industry and Business)

CREDIT TERMS FOR OPERATION OF THE STATE MILL AND ELEVATOR

A concurrent resolution directing the State Industrial Commission to establish credit terms for the operation of the State Mill and Elevator.

WHEREAS, the normal practice in business operations is to limit the extension of credit to thirty days; and

WHEREAS, the establishment of such a limitation by law for State business may prove to be too inflexible for each and every type of business operation of the State; and

WHEREAS, the credit operations of the North Dakota State Mill and Elevator have been criticized because they do not appear to meet the normal standards usually followed in business operations;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That the State Industrial Board is hereby directed to establish credit terms for the State Mill and Elevator which follow the normal business practices deemed to be just and reasonable and specifically providing that such credit terms be limited to thirty days unless an extension of such terms is deemed necessary by special circumstances.

Filed March 1, 1967.

HOUSE CONCURRENT RESOLUTION "E-1"

(Allen, Austin, Knudson, Hoghaug, Jenkins, Tweten, Bunker,
(Rundle, Davis)

ALTERATION OF TIME ZONE BOUNDARIES

A concurrent resolution directing the Attorney General to petition the Interstate Commerce Commission to alter the western boundary of the Central Standard Time Zone so that the Mountain Standard Time Zone in North Dakota would begin at the west bank of the Missouri River, in North Dakota.

WHEREAS, due to the traditional observance of Mountain Standard Time west and south of the Missouri River in the State of North Dakota; and

WHEREAS, the discontinuance of such practice would cause undue hardship upon the residents of that area; and

WHEREAS, the portion of North Dakota that would be affected by such a change lies in the westernmost portion of the Standard Time Zone which has almost the same effect as observing Daylight Saving Time; and

WHEREAS, the western boundary of the Central Standard Time Zone in North Dakota was originally established along at least a portion of the Missouri River;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That the Attorney General is hereby directed to petition the Interstate Commerce Commission for the purpose of requesting the alteration of the western boundary of the Central Standard Time Zone, as it affects North Dakota, except as to the city of Mandan, North Dakota, and an area within six miles in all directions of the city limits of said city of Mandan, North Dakota, which shall be included in the Central Standard Time Zone as a matter of convenience for the cities of Mandan and Bismarck, North Dakota, and that the Attorney General provide in his petition a request that the Inter-

state Commerce Commission act in all due haste so as to allow the Fortieth Legislative Assembly of the State of North Dakota to properly provide for exemptions to the Uniform Time Act of 1966.

Filed March 16, 1967.

HOUSE CONCURRENT RESOLUTION "I-1"

(Dornacker)

APPORTIONMENT CONVENTION

A concurrent resolution applying to the Congress of the United States to call a convention for the purpose of proposing an amendment to the Constitution of the United States, relating to apportionment.

Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

WHEREAS, the United States Supreme Court has ruled that membership in both Houses of a bicameral State legislature must be apportioned only according to population; and

WHEREAS, for 175 years the people of the various States have had the freedom to apportion their legislatures in the manner they felt best reflected the best interests of the people, recognizing that a system of apportionment that might be best for one State might not necessarily accommodate the needs of another State, but that each should be free to make its own selection;

Now, Therefore, Be It Resolved that this legislature respectfully petitions the Congress of the United States to call a constitutional convention for the purpose of submitting a constitutional amendment to the States which will secure to the people the right of some choice in the method of apportionment of one House of a State legislature on a basis other than population alone; and

Be It Further Resolved that this resolution is rescinded if the Congress itself proposes such a plan to the States for ratification; and

Be It Further Resolved that a duly attested copy of this resolution be immediately transmitted to the Secretary of the Senate of the United States and to the Clerk of the House of Representatives of the United States.

Filed March 16, 1967.

HOUSE CONCURRENT RESOLUTION "N-1"

(Halcrow)

PERMISSION OF VOLUNTARY CONFESSIONS

A concurrent resolution urging the Congress of the United States to pass legislation allowing admissibility of voluntary confessions in evidence and to provide for reasonable interrogation of arrested persons or to submit a constitutional amendment clarifying the Fifth Amendment.

WHEREAS, crime in the United States is growing by leaps and bounds and is almost out of control, with seven thousand six hundred serious crimes reported every day on the average and untold thousands more unreported; and

WHEREAS, law enforcement people are not now allowed a fair opportunity to do their job or to protect law abiding citizens because of extreme interpretations of the coverage of the Fifth Amendment to the United States Constitution by the Supreme Court, in a series of cases culminating in *Miranda vs. State of Arizona*; and

WHEREAS, law abiding citizens and victims of criminals are entitled to equal protection of the laws and have rights to be protected just as criminals and persons suspected of crime have rights, and their rights should be balanced to ensure domestic tranquility as prescribed by the Preamble to the United States Constitution; and

WHEREAS, Congress has the power and responsibility to make exceptions and regulations for the appellate jurisdiction of the United States Supreme Court, under section 2 of Article III of the Constitution;

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 pass suitable legislation permitting voluntary oral or written admissions and statements made by persons under no compulsion and outside of a criminal proceeding to be admissible in evidence and permitting reasonable interrogation of arrested persons with procedural safeguards, or to submit a constitutional amendment to the people of the United States for ratification which would clarify and limit the operation of the Fifth Amendment to the United States Constitution as interpreted by the Supreme Court.

And Be It Further Resolved, that copies of this resolution be forwarded by the Secretary of State to the United States

Attorney General and to each member of the North Dakota congressional delegation.

Filed March 16, 1967.

HOUSE CONCURRENT RESOLUTION "P-1"

(Sanstead, Dahl, Burke, Kuehn, Freeman, Erickson(26),
(Opedahl, Mathiason, Haugland, Metzger)

INSPECTION OF SANITARY CONDITIONS OF RAILROAD
LOCOMOTIVES AND CABOOSSES

A concurrent resolution authorizing and directing the State Department of Health to inspect the health and sanitary conditions of railroad locomotives and cabooses subject to the jurisdiction of the Public Service Commission.

WHEREAS, it has been brought to the attention of the legislative assembly that many of the health and sanitary facilities used on locomotive cabs and cabooses operated by railroad companies in the State of North Dakota which are subject to the jurisdiction of the Public Service Commission are not kept in a healthful, sanitary, clean and operating condition; and

WHEREAS, it appears that the State Department of Health has adequate powers and personnel to correct such unhealthful and unsanitary conditions;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That the State Department of Health is hereby authorized and directed to cause frequent and thorough inspections to be made of the locomotive cabs and cabooses used by the railroad companies operating in the State of North Dakota and which are subject to the jurisdiction of the Public Service Commission, with respect to the health and sanitary conditions of the toilet facilities, exhaust facilities and drinking water facilities installed and maintained in such cabs and cabooses, and to establish reasonable rules and regulations with respect thereto.

Be It Further Resolved that this resolution be printed in the journal and that properly authenticated copies be sent to the State Health Officer.

Filed March 16, 1967.

HOUSE CONCURRENT RESOLUTION "Q-1"

(Powers, Goodman, Connolly, Diehl, Kingsbury, Johnson(23),)
(Hoghaug, Moquist, Halcrow)

INVESTIGATION OF CARLOAD FREIGHT RATES APPLICABLE
TO SMALL GRAINS

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, nor 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 improper 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 including 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 reasonableness and 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 such an investigation as promptly as possible, 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 16, 1967.

HOUSE CONCURRENT RESOLUTION "T-1"

(Peterson(1), Sanstead)

LRC STUDY OF INCARCERATION YOUTHFUL OFFENDERS

A concurrent resolution directing the Legislative Research Committee to conduct a study of the advisability of confining young adults between the ages of eighteen and twenty-one at the State Penitentiary, State Farm, or North Dakota Industrial School.

WHEREAS, the North Dakota Industrial School has as residents children of both sexes, ranging in age as low as twelve years old; and

WHEREAS, the North Dakota Industrial School is programmed to care for and treat juvenile offenders; and

WHEREAS, it is difficult to determine whether or not the State Penitentiary and State Farm have the programs and facilities to adequately care for and treat young adults between the ages of eighteen and twenty-one;

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 for the purpose of determining whether or not the care and rehabilitation of young adults would be more effective by confining them in a separate facility especially designed to meet their needs, or whether the care and rehabilitation of these people would be more effective by confining them in an existing facility, but segregated in a program designed especially for their needs, and shall present such findings and make its report and recommendations to the Forty-first Legislative Assembly, together with such legislation as may be necessary to carry out such recommendations.

Filed March 16, 1967.

HOUSE CONCURRENT RESOLUTION "X-1"

(Link, Connolly)

CONSTRUCTION OF BRIDGE OVER GARRISON RESERVOIR

A concurrent resolution requesting the Army Corps of Engineers and the Bureau of Indian Affairs to take necessary action for the construction of a bridge over the Little Missouri arm of the Garrison Reservoir in Dunn County, North Dakota, on the Ft. Berthold Indian Reservation.

WHEREAS, the construction of the Garrison Dam and formation of the Garrison Reservoir, one of the largest manmade lakes in the world, has resulted in dividing the Fort Berthold Indian Reservation into five segments; and

WHEREAS, the Indian people were forced to move from their natural and historic environment and suffered the loss of valuable river bottom land, community centers, and burial grounds; and

WHEREAS, the formation of the reservoir necessitated the removal of the Elbowoods Bridge on State Highway No. 8, which had served as a vital means of communication for the people of Ft. Berthold; and

WHEREAS, the reservoir does now provide some of the most attractive camping, boating, and fishing opportunities in the nation; and

WHEREAS, the peaceful, orderly, and economic readjustment of the relocated Indian communities, as well as the practical, desirable, and beneficial development of the recreation opportunities of the reservoir and surrounding areas is dependent upon a convenient and properly constructed bridge connecting the western and southern segments of the Ft. Berthold Indian Reservation, and a portion of this project would become a part of the Lewis and Clark trailway already authorized by Congress;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That the United States Army Corps of Engineers takes all necessary action in cooperation with the United States Bureau of Indian Affairs for the construction of a bridge over the Little Missouri arm of the Garrison Reservoir in the general vicinity of Charging Eagle Bay in Dunn County, North Dakota, on the Fort Berthold Indian Reservation, and that the North Dakota State Highway Department and the respective boards of county commissioners of Dunn and McKenzie Counties

cooperate in the planning of such bridge and the integration of State and local road systems with such bridge; and

Be It Further Resolved, that copies of this resolution be forwarded to the Chief of Army Engineers, the Commissioner of the Bureau of Indian Affairs, the North Dakota congressional delegation, the State Highway Commissioner, and the respective boards of county commissioners of Dunn and McKenzie Counties.

Filed March 13, 1967.

HOUSE CONCURRENT RESOLUTION "B-2"

(Streibel, Johnson(23), Unruh)

STUDY OF EXTENSION OF ELECTRICAL SERVICE

A concurrent resolution requesting that a two-year study be made of the laws relating to certificates of public convenience and necessity for extensions of service by electric suppliers and the extensions of electric transmission and distribution lines of electric utilities.

WHEREAS, the House of Representatives' Standing Committee on Business and Industry has had before it House Bill No. 775, relating to the territorial integrity problem which currently exists between the private electrical suppliers and the rural cooperative electrical suppliers; and

WHEREAS, both electrical suppliers cannot come to an agreement as to what is an equitable solution to the problem; and

WHEREAS, there is presently before the North Dakota Supreme Court a case concerning the laws relating to the issuance of certificates of public convenience and necessity for the extensions of service by the electrical suppliers of this State; and

WHEREAS, representatives of the private electrical suppliers and the rural cooperative electrical suppliers are in tentative agreement that a study of this problem should be made;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That a committee composed of three members of the House of Representatives appointed by the Speaker of the House of Representatives and two members of the Senate appointed by the President pro tem of the Senate meet during the next two years with two persons representing the electric public

utilities and two persons representing the rural electric cooperatives, which representatives shall be jointly approved by the Speaker and the President pro tem, to study what method, if any, should be provided for the settlement of territorial disputes between electric suppliers, whether regulation of rural electric cooperatives in the same manner as rural telephone cooperatives is reasonably necessary to protect the rural consumer, whether more lucrative market areas are essential to continued efficient rural electric service by such cooperatives; and

Be It Further Resolved, that the committee make a report of its findings and recommendations together with any proposed legislation to the Forty-first Legislative Assembly.

Filed March 16, 1967.

HOUSE CONCURRENT RESOLUTION "D-2"

(Committee on Delayed Bills)

LRC STUDY OF VOCATIONAL EDUCATION

A concurrent resolution directing the Legislative Research Committee with the cooperation of the State Board of Higher Education and State Board of Public School Education to conduct a study of vocational and technical education, and to make a report to the legislative assembly.

WHEREAS, a coordinated, statewide program for vocational and technical education has not been developed, although such a program appears to be needed and there is a great deal of demand that such a program be instituted; and

WHEREAS, programs for vocational and technical education should not be instituted without initial planning and consideration being given to the total needs of the citizens of the State and existing available physical facilities; and

WHEREAS, sufficient comprehensive consideration has not been given to planning for vocational and technical education nor sufficient consideration as to the effects vocational and technical education would have on other educational institutions of the State;

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, with the cooperation and participation of the State Board of Higher Education and the State Board of Public School Education and represen-

tatives of such other agencies or institutions as the committee may request, is hereby directed to make a study of the total needs of the State in the field of vocational and technical education, giving consideration to the possibility of establishing a vocational and technical education program to serve all the citizens of North Dakota and the costs of such program, and considering whether such a program should be instituted on the secondary school level, the post high school level, and to include adult education and persons with special needs; and

Be It Further Resolved, that expenses of members of the State Board of Higher Education and State Board of Public School Education incurred in participating in such study be paid from funds contained in the respective legislative appropriations of such boards for such purpose; and

Be It Further Resolved, that the Legislative Research Committee make its report upon such study to the members of the Forty-first Legislative Assembly.

Filed March 16, 1967.

HOUSE CONCURRENT RESOLUTION "E-2"

(Delayed Bills Committee)

COMMENDATION OF BISMARCK POLICE

A concurrent resolution commending the Bismarck Police Commissioner and policemen for services rendered during the blizzard of February 22, 1967.

WHEREAS, many members of the Fortieth Legislative Assembly, while attending an organized social function of the legislative assembly, were unexpectedly caught in a sudden severe blizzard which would have caused many members to become stranded were it not for the action of Mr. Ernest Fleck, Police Commissioner of the city of Bismarck, and Sargeants Robert Brown and Leroy Speidel, and Corporals Bob Harvey and Charles Feland, and Patrolman Robert Woessner, members of the Bismarck Police Force, in rendering assistance in moving snowbound automobiles; and

WHEREAS, these men were called out to perform such service amidst the most violent weather conditions;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That the Police Commissioner and his men are hereby commended for their meritorious service and the thanks of

all members of the legislative assembly are hereby extended to them; and

Be It Further Resolved, that the Secretary of State send certified copies of this resolution to each of the men named in this resolution.

Filed March 16, 1967.

HOUSE CONCURRENT RESOLUTION "G-2"

(Rundle, Johnson(39))

TRIBUTE TO NORTH DAKOTA MEN WHO HAVE
DIED IN VIETNAM

A concurrent resolution paying tribute to North Dakota men who have died in Vietnam.

WHEREAS, Pvt. Robert E. Swanson, Grand Forks; Sgt. Willis Webber, Valley City; Ralph A. Copeland, formerly of Minot; Sgt. Gunder P. Gunderson, Walhalla; Lt. John Greenley, Fargo; Lawrence A. Britten, formerly of Minot; Irvin Knipfelbergs, Turtle Lake; Duane A. Waklee, Makoti; Cpl. Allen Korom, Minot; Pfc. Leonard Kroshus, Crosby; Sgt. Herbert Lapp, Hebron; Lt. Dick Perrin, formerly of Grand Forks; Richard D. Gill, Jr., Williston; Staff Sgt. John W. Hoag, Fargo; Maj. Richard D. Clark, Beach; Mike Kessel, Mandan and Dickinson; Lt. Thomas F. Spitzer, Baldwin; Lt. Lowell E. Harms, Fargo; Pfc. Randolph S. Hutchinson, Fort Yates; Sgt. Irvin Strandberg, Grand Forks; Pvt. Cleo Levang, Forman; Staff Sgt. Ronald L. Kent, Page; Sgt. Fred L. Johnson, Leeds; Pfc. Thomas L. Narum, Amidon; Harold E. Berg, Rhame; Spec. 5 Gerald K. Larson, Grand Forks and Fargo; Lt. Commander Carl Woods, Bottineau; First Sgt. Eria A. Martin, Jr., Scranton; SFM2 Lowell G. Einarson, Bantry; and Spec. 4 James L. Kramer, formerly of Bismarck, were called upon by their Country to fight those forces which would engulf the world and this Country in slavery; and

WHEREAS, these brave, courageous, and valorous men in performing their duty made that supreme sacrifice which men of their stature have been called upon down through our Country's history to make for the right to be free; and

WHEREAS, it is the intention of the Fortieth Legislative Assembly, acting as the representatives of all the people of the State of North Dakota, not to let these men go unrecognized;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That the Fortieth Legislative Assembly of the State of North Dakota hereby pays its solemn tribute to

Pvt. Robert E. Swanson, Grand Forks;
Sgt. Willis Webber, Valley City;
Ralph A. Copeland, formerly of Minot;
Sgt. Gunder P. Gunderson, Walhalla;
Lt. John Greenley, Fargo;
Lawrence A. Britten, formerly of Minot;
Irvin Knippelbergs, Turtle Lake;
Duane A. Waklee, Makoti;
Cpl. Allen Korom, Minot;
Pfc. Leonard Kroshus, Crosby;
Sgt. Herbert Lapp, Hebron;
Lt. Dick Perrin, formerly of Grand Forks;
Richard D. Gill, Jr., Williston;
Staff Sgt. John W. Hoag, Fargo;
Maj. Richard D. Clark, Beach;
Mike Kessel, Mandan and Dickinson;
Lt. Thomas F. Spitzer, Baldwin;
Lt. Lowell E. Harms, Fargo;
Pfc. Randolph S. Hutchinson, Fort Yates;
Sgt. Irvin Strandberg, Grand Forks;
Pvt. Cleo Levang, Forman;
Staff Sgt. Ronald L. Kent, Page;
Sgt. Fred L. Johnson, Leeds;
Pfc. Thomas L. Narum, Amidon;
Harold E. Berg, Rhame;
Spec. 5 Gerald K. Larson, Grand Forks and Fargo;
Lt. Commander Carl Woods, Bottineau;
First Sgt. Eria A. Martin, Jr., Scranton;
SFM2 Lowell G. Einarson, Bantry; and
Spec. 4 James L. Kramer, formerly of Bismarck;

for their sacrifice in helping to keep the United States of America and other freedom-loving countries of this world from becoming slaves of those forces which would strip the human race of its God-given right to be free men; and

Be It Further Resolved, that the people of the State of North Dakota hereby join together to express their deepest sympathy to the parents and relatives of these brave men and to express to them their fervent belief that these men did not die in vain; and

Be It Further Resolved, that the Secretary of State send enrolled copies of this resolution to the parents and wives of these heroes.

Filed March 16, 1967.

HOUSE CONCURRENT RESOLUTION "H-2"

(Committee on Delayed Bills)

COMPLETION OF SENATE AND HOUSE JOURNALS

A concurrent resolution providing for the completion of the legislative journals of the House and Senate.

WHEREAS, after termination of the Fortieth 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 Roy Gilbreath, Chief Clerk of the House, and Leo Leidholm, Secretary of the Senate, are hereby authorized, and employed to compare and index the journals of the Fortieth Legislative Assembly, and the said Roy Gilbreath and Leo Leidholm are hereby directed to arrange for and procure sufficient assistance to ensure that the said work shall be completed within twenty days after the adjournment of the session; and

Be It Further Resolved, that for the expenses of the said Roy Gilbreath and Leo Leidholm, as above set forth, there shall be allowed the sum of \$1,050.00 each, which shall include compensation for any assistance deemed necessary by them, all to be paid as other legislative expense, and paid when the respective claims are verified by the affidavits of the said Roy Gilbreath and Leo Leidholm showing completion of such work.

Filed March 16, 1967.

HOUSE CONCURRENT RESOLUTION "I-2"

(Committee on Delayed Bills)

COMPLETION OF LEGISLATIVE WORK

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 Fortieth 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 Fortieth Legislative Assembly be retained after the close of session to complete legislative work:

Roy Gilbreath, chief clerk, be retained six days;

E. A. Tough, bill clerk, four days;

Ernest Benser, sergeant-at-arms, four days;

Ruth Smith, desk reporter, four days;

Doris Thomas, chief committee clerk, four days;

Clara Wendt, chief page, three days;

Tom Tudor, page, three days;

Dorothy Plews, proofreader, three days;

Vonnie Wold, enrolling and engrossing clerk, five days;

Kathy Mayer, enrolling and engrossing clerk, five days;

David Holt, journal room, three days;

Enola Eck, telephone attendant and postmistress, three days;

That the following employees from the Senate of the Fortieth Legislative Assembly be retained after the close of session to complete legislative work:

Leo Leidholm, secretary of the Senate, be retained six days;

Art Herk, assistant secretary of the Senate, four days;

A. E. Bradley, sergeant-at-arms, four days;

Dormilee Diede, assistant desk reporter, four days;

Cora Essington, chief steno and payroll clerk, three days;

Lois Scherr, chief committee clerk, three days;
Robert Ellsworth, messenger, four days;
Vonny Mushik, enrolling and engrossing clerk, five days;
Eunice Anderson, enrolling and engrossing clerk, five days;
Nolan Fjeldahl, page, four days;
Ronald Anderson, page, three days;
Hazel Ludemann, journal room, three days;
Della Erickson, committee clerk for three days;

Be It Further Resolved, that the above-named employees be paid their regular rates of pay as specified as follows: Roy Gilbreath, chief clerk, six days, twenty-five dollars per day; E. A. Tough, bill clerk, four days, seventeen dollars per day; Ernest Benser, sergeant-at-arms, four days, fifteen dollars per day; Ruth Smith, desk reporter, four days, twenty-five dollars per day; Doris Thomas, chief committee clerk, four days; eighteen dollars per day; Clara Wendt, chief page, three days, fifteen dollars per day; Tom Tudor, page, three days, twelve dollars per day; Dorothy Plews, proofreader, three days, fifteen dollars per day; Vonnie Wold, enrolling and engrossing clerk, five days, fourteen dollars per day; Kathy Mayer, enrolling and engrossing clerk, five days, fourteen dollars per day; David Holt, journal room, three days, fourteen dollars per day; Enola Eck, telephone attendant and post-mistress, three days, twelve dollars per day; Leo Leidholm, secretary of the Senate, six days, twenty-five dollars per day; Art Herk, assistant secretary of the Senate, four days, twenty dollars per day; A. E. Bradley, sergeant-at-arms, four days, fifteen dollars per day; Dormilee Diede, assistant desk reporter, four days, twenty dollars per day; Cora Essington, chief steno and payroll clerk, three days, twenty dollars per day; Lois Scherr, chief committee clerk, three days, eighteen dollars per day; Robert Ellsworth, messenger, four days, thirteen dollars per day; Vonny Mushik, enrolling and engrossing clerk, five days, fourteen dollars per day; Eunice Anderson, enrolling and engrossing clerk, five days, fourteen dollars per day; Nolan Fjeldahl, page, four days, twelve dollars per day; Ronald Anderson, page, three days, twelve dollars per day; Hazel Ludemann, journal room, three days, fourteen dollars per day; Della Erickson, committee clerk, fourteen dollars per day;

and all of the above expenses are to be paid out of the per diem employees fund of the Fortieth 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 16, 1967.

HOUSE MEMORIAL RESOLUTIONS

HOUSE MEMORIAL RESOLUTION No. 1001

(Goodman)

ROY M. WELLS

A memorial resolution in memory of Roy M. Wells.

WHEREAS, God in His infinite wisdom has seen fit to summon from our midst on January 6, 1967, Mr. Roy M. Wells, husband of Mrs. Hester Wells, former Vice-chairwoman of the State Republican Party; father of Representative Robert Wells and Mrs. J. H. Mahoney, wife of former Senator J. H. Mahoney; and

WHEREAS, Roy M. Wells as a veteran of World War I, and through his participation in The American Legion and the Disabled American Veterans and other similar organizations and in civic activities has been a credit to himself and his family;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota:

That we express our deep regret and extend to Mrs. Hester Wells, Representative Robert Wells and his family, and Mrs. J. H. Mahoney and her family, our sincere sympathy and condolences in this time of sorrow; and

Be It Further Resolved, that duly enrolled copies of this resolution be forwarded by the Secretary of State to Mrs. Hester Wells, Representative Robert Wells and his family, and Mrs. J. H. Mahoney and her family.

Filed January 10, 1967.

HOUSE MEMORIAL RESOLUTION No. 1002

(Streibel, Link)

HAROLD E. BULLIS

A memorial resolution extending sympathy and condolence to Representative Harold O. Bullis upon the death of his father.

WHEREAS, God in His infinite wisdom has seen fit to summon from our midst Mr. Harold E. Bullis, the father of our colleague, Representative Harold O. Bullis; and

WHEREAS, Representative Harold O. Bullis 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 Representative Harold O. Bullis 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 Representative Harold O. Bullis and members of his family.

Filed January 23, 1967.

HOUSE MEMORIAL RESOLUTION No. 1003

(Committee on House of Representatives Memorial Resolutions)

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-ninth Legislative Assembly, God in His wisdom has seen fit to summon to eternal rest His servants and our former colleagues;

JOHN J. BAUMGARTNER, who served in the twenty-eighth and twenty-ninth legislative assemblies from the twenty-sixth legislative district, died April 19, 1966.

GEORGE P. BRAUN, who served in the twenty-sixth, twenty-seventh, thirtieth and thirty-first legislative assemblies from the thirty-first legislative district, died April 29, 1966.

MINNIE D. CRAIG, who served in the eighteenth to the twenty-third legislative assemblies from the twentieth legislative district, died July 1, 1966.

ARCHIBALD C. CURRIE, who served in the eighteenth and nineteenth legislative assemblies from the twenty-second legislative district, died October 11, 1966.

JOHN JACOBSON, who served in the nineteenth legislative assembly from the twenty-seventh legislative district, died July 19, 1965.

ANDREW F. LEHR, who served in the twenty-second legislative assembly from the thirty-sixth legislative district, died July 29, 1966.

H. DONALD OTOS, who served in the thirty-seventh legislative assembly from the tenth legislative district, died March 15, 1965.

ELWIN J. SEARS, who served in the thirty-sixth legislative assembly from the twentieth legislative district, died October 2, 1966.

CLAUDE C. TURNER, who served in the twenty-first legislative assembly from the thirty-first legislative district, died May 3, 1965.

HARVEY G. WAMBHEIM, who served in the twenty-ninth to the thirty-fifth legislative assemblies from the eighth legislative district, died June 4, 1966.

WHEREAS, today, we as members of the House of Representatives of the Fortieth 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 persons 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 Fortieth 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 13, 1967.

SENATE RESOLUTIONS

SENATE RESOLUTION No. 1

(Morgan, Schultz, Nasset)

OFFICIAL PHOTOGRAPHER

A Senate resolution to appoint an official photographer for the Senate of the Fortieth Legislative Assembly of the State of North Dakota.

Be It Resolved by the Senate 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, L. W. Naegle's Studio, of Bismarck, North Dakota, offers to make a composite group picture of the members of the 1967 North Dakota Senate, size thirty inches by forty inches, said picture to be framed and ready to hang; and fifty-five, fourteen inches by eleven inches, copies of said picture for each member and desk force of the Senate; and one, five inches by seven inches, print of each Senator and the Lieutenant Governor for the State Historical Society, at a cost of seven hundred and ninety-five dollars;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota:

That L. W. Naegle's Studio, of Bismarck, North Dakota, be, and is hereby appointed official photographer for the North Dakota Senate of the Fortieth Legislative Assembly;

Be It Further Resolved, that L. W. Naegle's Studio, of Bismarck, North Dakota, be, and is hereby awarded the sole privilege of photographing members of the Senate of the Fortieth Legislative Assembly, at a cost price of seven hundred and ninety-five dollars to be taken out of legislative expenses.

Filed February 3, 1967.

SENATE RESOLUTION No. 2

(Ringsak, Lips, Meschke)

EMERGENCY MEDICAL SERVICES

A resolution expressing the appreciation of the Senate for the establishment of emergency medical services for the use of members of the Legislative Assembly and visitors to the capitol.

WHEREAS, the North Dakota State Medical Association, the Bismarck hospitals, and the pharmacists of the city of Bismarck, have rendered assistance in establishing an emergency medical service unit in the Senate chambers of the capitol building during the legislative session; and

WHEREAS, the members of the North Dakota State Medical Association, and especially those residing in the city of Bismarck, have donated their time and professional skills each day of the legislative session by having a member of the medical profession present during every day of the legislative session; and

WHEREAS, the need for an emergency medical service unit and the need for the presence of a member of the medical profession have been demonstrated to be absolutely necessary on several occasions;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota:

That the Senate hereby expresses its appreciation to the North Dakota State Medical Association, the Bismarck Hospitals, and the pharmacists of Bismarck for their unselfish service to the members of the Legislative Assembly and the citizens of North Dakota, and that copies be sent by the Secretary of State to the President of the North Dakota State Medical Association, the Bismarck Hospital, the St. Alexius Hospital, the President of the North Dakota Pharmaceutical Association, and the President of the Bismarck Medical Association.

Filed February 13, 1967.

SENATE RESOLUTION No. 3

(Hofstrand)

ACHIEVEMENTS OF R. D. MAGILL

A resolution recognizing the achievements and services of Mr. R. D. Magill in the livestock and agriculture industry.

WHEREAS, R. D. Magill, during his seventy-five years, has been one of the outstanding citizens of this nation in the field of livestock breeding; and

WHEREAS, R. D. Magill, as past president of the National Polled Shorthorn Breeders Association and the North Dakota Farm Bureau, has been extremely active in promoting livestock breeding and agriculture both on the state and national level; and

WHEREAS, R. D. Magill, although remaining unmarried, has aided five nephews to attend college and attain their degrees, and has thus assumed obligations normally carried out by parents; and

WHEREAS, R. D. Magill, is being honored during the Little International Livestock Show being held at North Dakota State University of Agriculture and Applied Sciences by having his portrait hung in the Hall of Fame of the University from which he graduated;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota:

That this body recognize the achievements of R. D. Magill and join in honoring and paying tribute to him for his contributions to the State and nation; and

Be It Further Resolved, that the Secretary of State forward a copy of this resolution to Mr. R. D. Magill.

Filed February 20, 1967.

SENATE RESOLUTION No. 4
(Committee on Agriculture)

CROP REPORTING METHODS

A resolution relating to crop reporting methods and procedures used in determining yields by the crop reporting service.

WHEREAS, the wheat certificate payment program is a major factor in the income received by farmers and counties; and

WHEREAS, these payments can mean a differential of hundreds of thousands of dollars between counties if the projected wheat yields for each county are improperly determined; and

WHEREAS, farmers and county agricultural stabilization conservation service committees have become concerned about the iniquities and variations occurring in county projected wheat yields; and

WHEREAS, the methods of determining the projected wheat yields and all farm commodity reports could be greatly improved upon by securing authentic and representative commodity yields;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota:

That the Senate of the Fortieth Legislative Assembly of the State of North Dakota hereby requests that the United States Department of Agriculture and its crop reporting service, the State Agricultural Stabilization Conservation Service and its county committees, the State Agriculture Departments and assessors, cooperate to formulate and devise improved methods in securing accurate and representative yield reports from individuals, townships, and counties to correct the present cumbersome and unfair method of determining commodity crop yields; and

Be It Further Resolved, that the Secretary of State send certified copies of this resolution to the State Agricultural Stabilization Conservation Service Committees, State Department of Agriculture, United States Department of Agriculture and its crop reporting services, chairmen of the Senate and House agricultural committees of the States of Minnesota and South Dakota, the congressional delegations of the States of North Dakota, South Dakota, and Minnesota, and chairmen of the United States Senate and House agricultural committees.

Filed March 16, 1967.

SENATE CONCURRENT RESOLUTIONS

SENATE CONCURRENT RESOLUTION "A"

(Forkner, Holand, Luick)
(From LRC Study)

LRC STUDY OF VEHICLE INSPECTION AND OTHER HIGHWAY SAFETY PROBLEMS

A concurrent resolution directing the Legislative Research Committee to carry out a comprehensive study of vehicle inspection and other related highway safety problems.

WHEREAS, highway accidents have been steadily increasing in the State of North Dakota, bringing higher tolls of highway fatalities with property losses totaling millions of dollars and causing immeasurable human suffering; and

WHEREAS, certain states which have enacted vehicle inspection statutes for the purpose of ensuring that only safe vehicles are operated upon highways, roads, and streets; and

WHEREAS, the Federal Highway Safety Act of 1966 requires efforts in this area if the State of North Dakota is to continue to receive their full share of federal highway funds and funds to be made available under the Highway Safety Act of 1966; and

WHEREAS, the state highway department and certain traffic safety organizations are available to provide information and assistance in studying the prevention of accidents and problems of highway safety;

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, with the cooperation of the State Highway Department and State Highway Patrol, carry on a comprehensive study of vehicle inspection and other highway safety problems in the State of North Dakota and which committee shall report its recommendations to the Forty-first Legislative Assembly, together with suitable legislation to carry out such recommendations.

Filed March 16, 1967.

SENATE CONCURRENT RESOLUTION "B"

(Lips, Torgerson, Morgan, Meschke)

ADDRESS OF JOHN E. DAVIS

A concurrent resolution extending an invitation to the Honorable John E. Davis, National Commander of the American Legion, to address a joint session of the Fortieth Legislative Assembly of the State of North Dakota.

WHEREAS, the State of North Dakota is honored to have a citizen of this state chosen as the National Commander of the American Legion; and

WHEREAS, the Honorable John E. Davis has also served this state with distinction as its Governor and as a member of the North Dakota Senate; and

WHEREAS, Commander Davis has just returned from extensive travels in Southeast Asia and particularly South Vietnam;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That John E. Davis, National Commander of the American Legion and former Governor and State Senator of this great State, is hereby extended an invitation to appear before and address a joint session of the Fortieth Legislative Assembly of the State of North Dakota at 3:00 p.m. on Tuesday, January 10, 1967.

Filed January 9, 1967.

SENATE CONCURRENT RESOLUTION "C"

(Stafne, Longmire, Ringsak, Litten, Larson(32), Lowe)

LRC HOME RULE STUDY

A concurrent resolution directing the Legislative Research Committee to study and determine those powers and rights to be granted to home rule cities as presently authorized under section 130 of the State Constitution.

WHEREAS, the electors of this State approved a constitutional amendment which authorizes the legislative assembly to grant home rule powers to the state's municipalities; and

WHEREAS, there are a multitude of powers relating to taxing, bonding, police powers, business regulations, government-

tal operations, and other related subject matters which could be granted to home rule cities under the constitutional amendment; and

WHEREAS, the legislative assembly may classify those municipalities which can adopt home rule; and

WHEREAS, the determination of all of these problems requires a detailed and thoughtful study so as to ensure a workable and beneficial home rule law for the municipalities and the state regarding those powers to be granted to home rule municipalities;

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 make a comprehensive study of classes of cities which might benefit from home rule, powers to be granted, methods of adopting home rule charters, and all other related matters regarding the granting of home rule powers to the municipalities of this State by the legislative assembly; and

Be It Further Resolved, that the Legislative Research Committee make its report and recommendations thereon to the Forty-first Legislative Assembly, together with any legislation required to carry out such recommendations.

Filed March 16, 1967.

SENATE CONCURRENT RESOLUTION "D"

(Lips, Meschke)

BROADCASTERS' DAY

A concurrent resolution extending an invitation to Vincent T. Wasilewski, President of the National Association of Broadcasters, to address a joint session of the Fortieth Legislative Assembly of the State of North Dakota.

WHEREAS, the Honorable Vincent T. Wasilewski, President of the National Association of Broadcasters, has distinguished himself through service in the armed forces, in the profession of law, and as an officer of the National Association of Broadcasters; and

WHEREAS, through the courtesy of the North Dakota Association of Broadcasters, arrangements have been made for the presence of Mr. Wasilewski for the purpose of addressing the North Dakota Legislative Assembly;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That Wednesday, January 11, 1967, is hereby designated "Broadcasters' Day", and that Mr. Vincent T. Wasilewski, president of the National Association of Broadcasters, is hereby extended an invitation to appear before and address a joint session of the Fortieth Legislative Assembly of the State of North Dakota at 1:45 p.m. on such day.

Filed January 9, 1967.

SENATE CONCURRENT RESOLUTION "E"

(Becker)

COMMENDATION OF GERALD L. STAIR

A concurrent resolution commending Gerald L. Stair for his service to the Legislative Assembly of the State of North Dakota.

WHEREAS, in 1943, a young man from Bottineau County journeyed to Bismarck, North Dakota, to the Twenty-eighth Legislative Assembly with his father the Honorable Arlen Stair, Representative from Bottineau County; and

WHEREAS, at this session Gerald L. Stair, was employed as "telephone girl" for the Senate, and performed such duty with the utmost speed and efficiency; and,

WHEREAS, thereafter the said Gerald L. Stair served as page in the Senate for four sessions; in 1955 as Assistant Chief Clerk of the House; in 1957 was elected Chief Clerk of the House and served in such position until 1965 when he was elected Secretary of the North Dakota Senate; and,

WHEREAS, the said Gerald L. Stair has served in all of the above positions with distinction and honor and has demonstrated his ability as an outstanding parliamentarian and student of the legislative process;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

Commend the said Gerald L. Stair for his diligence and express its sincere appreciation for the many years of efficient and outstanding service to the Legislature and the citizens of this State.

Filed January 9, 1967.

SENATE CONCURRENT RESOLUTION "F"

(Longmire)

NEWSPAPERMEN'S DAY

A concurrent resolution for the purpose of designating February 3, 1967, as Newspapermen's Day at the state legislative assembly, and inviting Mr. Stanley M. Swinton 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 citizens informed about their government; and

WHEREAS, Mr. Stanley M. Swinton, Assistant General Manager and Director of World Service for the Associated Press, and widely known for his extensive world travels, will be able to attend a joint meeting of newspapermen and legislators on February 3, 1967;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the Senate and the House of Representatives of the State of North Dakota, individually and collectively, invite the newspapermen of their respective districts to spend the day of February 3, 1967, at the state capitol as our guests, to witness at firsthand, the legislative process; and

Be It Further Resolved, that the Senate and the House of Representatives of the State of North Dakota join in the invitation to Mr. Stanley M. Swinton, Assistant General Manager and Director of World Services for the Associated Press, to address the joint meeting of newspapermen and legislators.

Filed January 11, 1967.

SENATE CONCURRENT RESOLUTION "H"

(All Senators of the Fortieth Legislative Assembly)

RECOGNITION OF LAWRENCE WELK

A concurrent resolution recognizing North Dakota's favorite son, Mr. Lawrence Welk.

WHEREAS, on January 7, 1967, the state of North Dakota was once again honored on the ever-popular and famous Lawrence Welk television program; and

WHEREAS, Lawrence Welk is not only a native son of this great state but has become its favorite son; and

WHEREAS, Lawrence Welk reflects credit upon the State of North Dakota in bringing fame to himself; and

WHEREAS, Lawrence Welk has continually during his illustrious career paid tribute to the State of North Dakota;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the Fortieth Legislative Assembly of the State of North Dakota, representing the people of North Dakota, does hereby congratulate and thank Lawrence Welk for the sincere love that he has shown for his native State, and it is the desire of this body that he accept this resolution as a token of admiration and warm affection which the people of North Dakota have for him; and

Be It Further Resolved, that a duly enrolled copy of this resolution be forwarded by the Secretary of State to Lawrence Welk, North Dakota's favorite son.

Filed January 21, 1967.

SENATE CONCURRENT RESOLUTION "I"

(Morgan, Ringsak)

USE OF YELLOW CENTERLINES

A concurrent resolution urging the Bureau of Public Roads to adopt standards allowing the use of yellow centerlines in the northern states.

WHEREAS, the Bureau of Public Roads, a division of the United States Department of Commerce, has established standards for traffic control devices on Federal aid highways prescribing that centerlines on Federal roadways shall be white; and

WHEREAS, white centerlines, while satisfactory for use on highways of many of our southern states, have proved to be extremely difficult to see during the colder seasons of the year in North Dakota and other northern states because of the accumulation of ice and snow on the highways; and

WHEREAS, the use of yellow centerlines would be much easier than white centerlines to see and distinguish in the winter seasons and equally as easy to distinguish during the warmer seasons of the year;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the United States Department of Commerce, and specifically the Bureau of Public Roads, is hereby urged to adopt standards which would permit the northern states to use yellow centerlines on Federal highways; and

Be It Further Resolved, that copies of this resolution be forwarded to the Federal Highway Administrator and to each member of the North Dakota congressional delegation.

Filed March 16, 1967.

SENATE CONCURRENT RESOLUTION "K"

(Lips, Meschke)

COMMENDATION OF SECRETARY OF STATE BEN MEIER

A concurrent resolution commending Secretary of State Ben Meier upon his election as president of the National Association of Secretaries of State.

WHEREAS, Secretary of State Ben Meier has been elected president of the National Association of Secretaries of State; and

WHEREAS, the selection of North Dakota's Secretary of State by his national colleagues to head their national organization reflects substantial credit upon him, and is a matter in which the citizens of the state take great pride;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the Fortieth Legislative Assembly takes great pleasure in commending Secretary of State Meier upon his election as president of his national organization; and

Be It Further Resolved, that copies of this resolution be forwarded by the Secretary of the Senate to Secretary of State Ben Meier.

Filed January 25, 1967.

SENATE CONCURRENT RESOLUTION "L"

(Lips, Meschke)

COMMENDATION OF GOVERNOR WILLIAM L. GUY

A concurrent resolution commending Governor William L. Guy upon his election as chairman of the National Governors' Conference.

WHEREAS, Governor William L. Guy has been elected chairman of the National Governor's Conference; and

WHEREAS, the selection of North Dakota's Governor by his national colleagues to head their organization reflects substantial credit upon him, and is a matter in which the citizens of the State take great pride;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the Fortieth Legislative Assembly takes great pleasure in commending Governor Guy upon his election as chairman of his national organization; and

Be It Further Resolved, that copies of this resolution be forwarded by the Secretary of the Senate to Governor William L. Guy.

Filed January 25, 1967.

SENATE CONCURRENT RESOLUTION "M"

(Larson)

EROSION CONTROL AND BANK STABILIZATION ON
MISSOURI RIVER, NORTH DAKOTA

A concurrent resolution urging the Corps of Engineers to construct and maintain at Federal expense additional bank stabilization works on the Missouri River, North Dakota.

WHEREAS, as a part of the Missouri River Basin Development Project, dams and large reservoirs have been constructed by the Federal Government which occupy all of the reach of the Missouri River extending from Gavins Point Dam in South Dakota to Williston, North Dakota, with the lone exception of a 70-mile stretch between the Oahe and Garrison Reservoirs in North Dakota; and

WHEREAS, the remaining channel between the Oahe Reservoir and Garrison Dam no longer performs its function as a

natural river but is now acting as a regulated channel for the conveyance of water needed to meet the requirements of flood control, irrigation, navigation, power generation, municipal and industrial water supplies, pollution control, recreation, and wildlife purposes; and

WHEREAS, the stored water in the Garrison Reservoir is released in such manner as to accommodate the downstream beneficiaries—case in point:

1. The water is virtually silt-free when it enters the channel and has tremendous ability to pick up its former bedload in the form of silt;
2. The releases are fluctuated to accommodate the hydroelectric generation demand with variations from 4,000 to 32,000 cfs thereby causing surging conditions which aggravate any existing erosion problem and is causing an annual loss of approximately 640 acres of valuable agricultural bottom lands; and

WHEREAS, a portion of this threatened land is now being irrigated or has an irrigation potential which is of great economic value to the localities in which it is located and to the State of North Dakota as well; and

WHEREAS, Federal lands and public parks are a part of the area affected; and

WHEREAS, some bank stabilization works have been constructed by the Federal Government but the State and affected local entities have been required to obligate themselves for the cost of maintenance and operation of the improvements; and

WHEREAS, the State of North Dakota can ill afford to assume the maintenance cost of this channel which principally serves and is used by downstream interests;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the Fortieth Legislative Assembly of the State of North Dakota recommends and respectfully urges the Congress to direct and authorize the United States Army Corps of Engineers to construct and assume, at Federal expense, the operation and maintenance of any additional structures needed to stabilize the banks of the aforesaid segment of the Missouri River; and

Be It Further Resolved, that copies of this resolution be transmitted by the Secretary of State to the members of the

North Dakota congressional delegation; Chief of Engineers, Department of the Army, Washington, D.C.; Division Engineer, Missouri River Diversion, Corps of Engineers, Omaha, Nebraska; District Engineer, Corps of Engineers, Omaha, Nebraska; and Area Engineer, Corps of Engineers, Riverdale, North Dakota.

Filed March 16, 1967.

SENATE CONCURRENT RESOLUTION "R"

(Meschke, Lips)

RED-SOURIS-RAINY RIVER BASINS COMMISSION

A concurrent resolution endorsing the establishment by the President of the Red-Souris-Rainy River Basins Commission, authorizing appointment of the State member thereof and fixing his compensation, and pledging State support thereto.

WHEREAS, the Congress of the United States enacted the Water Resources Planning Act, approved July 22, 1965 (Public Law 89-80, 79 Stat. 246), and—

"In order to meet the rapidly expanding demands for water throughout the nation . . . declared it to be the policy of the Congress to encourage the conservation, development, and utilization of water and related land resources of the United States on a comprehensive and coordinated basis by the Federal Government, States, localities, and private enterprise with the cooperation of all affected Federal agencies, States, local governments, individuals, corporations, business enterprises, and others concerned"; and

WHEREAS, the said Act provided that nothing therein shall be construed—

"to expand or diminish either Federal or State jurisdiction, responsibility, or rights in the field of water resources planning, development, or control . . ."; and

WHEREAS, on October 30, 1965, Governor William L. Guy of North Dakota, with the concurrence of Governor Karl F. Rolvaag of Minnesota, addressed a request to the Water Resources Council for the creation of a river basin water and related land resources commission, embracing the Red River of the North Drainage Basin, lying within the boundaries of the States of Minnesota, North Dakota, and South Dakota, under and pursuant to the authority and provisions of Title II of the aforesaid Act (Public Law 89-80); and

WHEREAS, at the suggestion and recommendation of the Water Resources Council, concurred in by the applicants, the area has been expanded by the addition thereto of the Souris and Rainy River Basins; and

WHEREAS, it is anticipated that the President of the United States, Lyndon B. Johnson, soon will declare the establishment of the Red-Souris-Rainy River Basins Commission, encompassing their drainage areas within said States of Minnesota, North Dakota, South Dakota, and a minuscule area in Montana; and

WHEREAS, the purpose, responsibility, and function of such commission would be to:

"1. Serve as the principal agency for the coordination of Federal, State, interstate, local and nongovernmental plans for the development of water and related land resources in its area, river basin, or group of river basins;

"2. Prepare and keep up to date, to the extent practicable, a comprehensive, coordinated, joint plan for Federal, State, interstate, local and nongovernmental development of water and related resources; provided, that the plan shall include an evaluation of all reasonable alternative means of achieving optimum development of water and related land resources of the basin or basins, and it may be prepared in stages, including recommendations with respect to individual projects;

"3. Recommend long-range schedules of priorities for the collection and analysis of basic data and for investigation, planning, and construction of projects; and

"4. Foster and undertake such studies of water and related land resources problems in its area, river basin, or group of river basins as are necessary in the preparation of the plan described in clause 2 of this subsection";

provided, however, that nothing in said Act shall be construed—

"As authorizing any entity established or acting under the provisions hereof to study, plan, or recommend the transfer of waters between areas under the jurisdiction of more than one river basin commission or entity performing the function of a river basin commission"; and

WHEREAS, the appointment of a commission member from each state shall be in accordance with the laws of the state which he represents, and in the absence of governing provisions therefor such state member shall be appointed by and

serve at the pleasure of the Governor, and shall receive such compensation as may be provided by the state; and

WHEREAS, section 207(a) of said Act provides—

“Each commission shall recommend what share of its expenses shall be borne by the Federal Government, but such share shall be subject to approval by the Council. The remainder of the commission’s expenses shall be otherwise apportioned as the commission may determine . . .”;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the Fortieth Legislative Assembly of the State of North Dakota does hereby—

1. Concur in the policy of Congress declared in said Public Law 89-80;

2. Construe said Act as in no manner or form endorsing the concept of a so-called Federal Regional Valley Authority;

3. Commend Governor Guy for promptly initiating a request for the establishment of a Red River Basin Commission;

4. Concur in the purpose and objective of the proposed commission;

5. Concur in the appointment of the state member by and to serve at the pleasure of the Governor;

6. Pledge its full support to enable the proposed commission to carry out its functions by implementation thereof through adequate appropriations, required participation, and necessary cooperation; and

7. Direct and authorize the head of each state department or independent agency, determined by the State member to have a substantial interest in the work to be undertaken by the proposed commission, upon request therefor of such member a. to furnish to him such information as may be necessary for carrying out his work and as may be available to or procurable by such department or agency, and b. to detail to temporary duty with such proposed commission on a reimbursable basis such personnel within his administrative jurisdiction as may be needed or believed to be useful for the intended purposes, each such detail to be without loss of seniority, pay, fringe benefits, or other employee status; and

Be It Further Resolved, that the Secretary of State transmit copies of this resolution to Honorable Harold LeVander, Governor of Minnesota, St. Paul; Honorable Nils A. Boe, Governor of South Dakota, Pierre; Honorable Tim M. Babcock, Governor of Montana, Helena; Honorable Ross Thatcher, Prime Minister of Saskatchewan, Regina; Honorable Duff Roblin, Prime Minister of Manitoba, Winnipeg; Honorable John P. Roberts, Prime Minister of Ontario, Toronto; Honorable A. D. P. Heeneey, Chairman Canadian Section, International Joint Commission, Ottawa, Ontario; Honorable Matthew E. Welsch, Chairman, United States Section, International Joint Commission, Washington, D.C. 20440; Honorable Stewart L. Udall, Chairman, and Honorable Henry P. Caulfield, Jr., Executive Director, Water Resources Council, Washington, D.C. 20005; Division Engineer, North Central Division, Corps of Engineers, 536 South Clark Street, Chicago, Illinois 60605; District Engineer, Corps of Engineers, 1217 U.S. Post Office and Custom House, St. Paul, Minnesota 55101; Senators Milton R. Young and Quentin N. Burdick and Representatives Mark Andrews and Thomas S. Kleppe, Washington, D.C.; and Governor William L. Guy.

Filed March 16, 1967.

SENATE CONCURRENT RESOLUTION "S"

(Meschke, Lips)

MISSOURI RIVER BASIN COMMISSION

A concurrent resolution endorsing the establishment by the President of the Missouri River Basin Commission, authorizing appointment of the State member thereof and fixing his compensation, and pledging State support thereto.

WHEREAS, the Congress of the United States enacted the Water Resources Planning Act, approved July 22, 1965 (Public Law 89-80, 79 Stat. 246), and—

"In order to meet the rapidly expanding demands for water throughout the nation . . . declared it to be the policy of the Congress to encourage the conservation, development, and utilization of water and related land resources of the United States on a comprehensive and coordinated basis by the Federal Government, States, localities, and private enterprise with the cooperation of all affected Federal agencies, States, local governments, individuals, corporations, business enterprises, and others concerned"; and

WHEREAS, the said Act provided that nothing therein shall be construed—

“to expand or diminish either Federal or State jurisdiction, responsibility, or rights in the field of water resources planning, development, or control . . .”; and

WHEREAS, on May 31, 1966, Governor William L. Guy of North Dakota, addressed a request to the Water Resources Council for the creation of a river basin water and related land resources commission, embracing the Missouri River Drainage Basin lying within the boundaries of the States of Colorado, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, North Dakota, South Dakota and Wyoming, under and pursuant to the authority and provisions of Title II of said Act, with which request some of the governors of the affected States have indicated concurrence; and

WHEREAS, when the required number of the basin states have concurred, it is anticipated that the President of the United States will declare the establishment of the Missouri River Basin Commission, encompassing the drainage area within the States aforesaid; and

WHEREAS, the purpose, responsibility, and function of such commission would be to:

“1. Serve as the principal agency for the coordination of Federal, State, interstate, local and nongovernmental plans for the development of water and related land resources in its area, river basin, or group of river basins;

“2. Prepare and keep up to date, to the extent practicable, a comprehensive, coordinated, joint plan for Federal, State, interstate, local and nongovernmental development of water and related resources; provided, that the plan shall include an evaluation of all reasonable alternative means of achieving optimum development of water and related land resources of the basin or basins, and it may be prepared in stages, including recommendations with respect to individual projects;

“3. Recommend long-range schedules of priorities for the collection and analysis of basic data and for investigation, planning, and construction of projects; and

“4. Foster and undertake such studies of water and related land resources problems in its area, river basin, or group of river basins as are necessary in preparation of the plan described in clause 2. of this subsection”;

provided, however, that nothing in said Act shall be construed—

“as authorizing any entity established or acting under the provisions hereof to study, plan, or recommend the transfer of waters between areas under the jurisdiction of more than one river basin commission or entity performing the function of a river basin commission”; and

WHEREAS, the appointment of a commission member from each state shall be in accordance with the laws of the State which he represents, and in the absence of governing provisions therefor such state member shall be appointed by and serve at the pleasure of the Governor, and shall receive such compensation as may be provided by the State; and

WHEREAS, section 207(a) of said Act provides—

“Each commission shall recommend what share of its expenses shall be borne by the Federal Government, but such share shall be subject to approval by the Council. The remainder of the commission’s expenses shall be otherwise apportioned as the commission may determine . . .”;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the Fortieth Legislative Assembly of the State of North Dakota does hereby—

1. Concur in the policy of Congress declared in said Public Law 89-80;
2. Construe said Act as in no manner or form endorsing the concept of a so-called Federal Regional Valley Authority;
3. Commend Governor Guy for initiating a request for the establishment of a Missouri River Basin Commission;
4. Concur in the purpose and objective of the proposed commission;
5. Encourage and urge the Governors of the Missouri River Basin States who have not yet concurred in Governor Guy’s request to promptly provide the Water Resources Council with their concurrences therein;
6. Concur in the appointment of the State member by and to serve at the pleasure of the Governor;
7. Pledge its full support to enable the proposed commission to carry out its functions by implementation thereof through adequate appropriations, required participating, and necessary cooperation; and

8. Direct and authorize the head of each state department or independent agency, determined by the State member to have a substantial interest in the work to be undertaken by the proposed commission, upon request of such member therefor (a) to furnish to him such information as may be necessary for carrying out his work and as may be available to or procurable by such department or agency, and (b) to detail to temporary duty with such proposed commission on a reimbursable basis such personnel within his administrative jurisdiction as may be needed or believed to be useful for the intended purposes, each such detail to be without loss of seniority, pay, fringe benefits, or other employee status; and

Be It Further Resolved, that the Secretary of State transmit copies of this resolution to Honorable John A. Love, Governor of Colorado, Denver; Honorable Harold E. Hughes, Governor of Iowa, Des Moines; Honorable Robert Docking, Governor of Kansas, Topeka; Honorable Harold LeVander, Governor of Minnesota, St. Paul; Honorable Warren E. Hearnes, Governor of Missouri, Jefferson City; Honorable Tim M. Babcock, Governor of Montana, Helena; Honorable Norbert A. Tiemann, Governor of Nebraska, Lincoln; Honorable William L. Guy, Governor of North Dakota, Bismarck; Honorable Nils A. Boe, Governor of South Dakota, Pierre; Honorable Stanley Hathaway, Governor of Wyoming, Cheyenne; Honorable Stewart L. Udall, Chairman, and Honorable Henry P. Caulfield, Jr., Executive Director, Water Resources Council, Washington, D.C. 20005; Division Engineer, Missouri River Division, Corps of Engineers, 215 North 17th Street, Omaha, Nebraska 68102; District Engineer, Corps of Engineers, 6012 U.S. Post Office and Custom House, Omaha, Nebraska 68102; Senators Milton R. Young and Quentin N. Burdick and Representatives Mark Andrews and Thomas S. Kleppe, Washington, D.C.

Filed March 16, 1967.

SENATE CONCURRENT RESOLUTION "T"

(Longmire, Larsen (Grand Forks), Lowe)

APPRECIATION TO CHESTER FRITZ

A concurrent resolution expressing appreciation to Chester Fritz for his gifts to the University of North Dakota and for the benefit of the people of his native State.

WHEREAS, through the generous gift of Chester Fritz the sum of one million dollars has been made available toward the construction of a new auditorium at the University of North Dakota; and

WHEREAS, Chester Fritz has previously given one million dollars for the construction of the Chester Fritz Library now serving thousands of students and citizens of North Dakota every day; and

WHEREAS, Chester Fritz has generously endowed the Chester Fritz scholarships enabling worthy boys and girls to continue with their college education through the financial help of such scholarships and his other benefactions;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That on behalf of the people of the State of North Dakota, we express our thanks and appreciation for all the generosity and foresight of Mr. Fritz for gifts that make North Dakota a greater State and enhance the cultural and educational opportunities of its people, and especially for his most recent significant contribution that will make possible an auditorium, which will become a cultural center to improve the quality of life enjoyed by University students and by citizens of the State and, moreover, we commend the State Board of Higher Education for its support for this extension of the cultural life of the area and for its decision to name the new center THE CHESTER FRITZ AUDITORIUM, thus perpetuating the name, generosity, and foresight of the donor; and

Be It Further Resolved, that copies of this resolution be forwarded by the Secretary of State to Chester Fritz.

Filed February 3, 1967.

SENATE CONCURRENT RESOLUTION "U"

(Longmire, Larsen (Grand Forks), Lowe)

APPRECIATION TO DR. MAXWELL M. UPSON

A concurrent resolution expressing appreciation to Dr. Maxwell M. Upson for the contribution toward the construction of a new engineering building on the campus of the University of North Dakota.

WHEREAS, through the generous gift of Dr. Maxwell M. Upson the sum of four hundred thousand dollars has been offered to be used toward the construction of an engineering building on the campus of the University of North Dakota, provided this amount can be matched by March 1; and

WHEREAS, Dr. Upson also endowed the Maxwell M. Upson scholarships providing sixteen scholarships of five hundred dollars each for each year in perpetuity, thus enabling many worthy young North Dakotans to continue with their education when financial circumstances might otherwise have made this impossible; and

WHEREAS, Dr. Maxwell M. Upson also endowed the Maxwell M. Upson Lectureship which provides outstanding and distinguished lecturers for the University community and general public each year;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That on behalf of the people of the State of North Dakota we express our thanks and appreciation for the generosity and foresight of Dr. Upson in making this significant contribution to his Alma Mater, and we commend the State Board of Higher Education for its efforts to secure the necessary matching funds and for naming the proposed new building THE MAXWELL M. UPSON HALL, to perpetuate the name, generosity, and foresight of the donor.

Be It Further Resolved, that a copy of this resolution be forwarded to Dr. Maxwell M. Upson by the secretary of state.

Filed February 3, 1967.

SENATE CONCURRENT RESOLUTION "W"

(Wilhite)

IMPORT OF CRUDE OIL

A concurrent resolution relating to the import of crude oil and the determination of available supplies for national defense purposes.

WHEREAS, it is recognized by the government of the United States and all responsible parties that a firm reliable domestic source of crude oil is essential for our national defense; and

WHEREAS, United States import policies have recognized that in the event of a national emergency crude oil supplies on the North American Continent are a more reliable source of supply than those located in Venezuela or far-off Saudi Arabia and consequently unlimited overland import of crude oil has been permitted from Canada and Mexico; and

WHEREAS, the Dominion of Canada exports in excess of 375,000 barrels of crude oil each day to the United States and imports in excess of 440,000 barrels from overseas for its own domestic needs, thereby leaving Canada with a net exportable deficit of 65,000 barrels per day; and

WHEREAS, it must be recognized that a national emergency would in all probability cut off the source of crude oil imports to Canada, thereby forcing the Canadian government in its national interest to make up at least a portion of the crude oil deficit by retaining all of its domestic crude oil supply that it presently exports to the United States;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the legislative assembly urge the government of the United States to permit the import by overland routes from any other country only to the amount such country's crude oil production exceeds its domestic consumption; and then only if such country is relying solely on overland crude for supplying its own domestic needs, thereby assuring the development of domestic supplies of crude oil to meet the requirements of the United States in a national emergency; and

Be It Further Resolved, that copies of this resolution be forwarded by the Secretary of State to the United States Secretary of Interior, the United States Secretary of State, the United States Secretary of Defense, and each member of the North Dakota congressional delegation.

Filed March 16, 1967.

SENATE CONCURRENT RESOLUTION "Z"

(Chesrown, Hernet, Ruemmele, Ringsak, Roen, Morgan, Nasset)

CONSTRUCTION OF BRIDGE OVER OAHE RESERVOIR

A concurrent resolution requesting the United States Congress to authorize and provide funds for the construction of a bridge over the Oahe Reservoir segment of the Missouri River.

WHEREAS, residents of, and travelers through, the south central portion of the State of North Dakota and the north central portion of South Dakota, since the late 1800's relied upon ferry service in crossing the Missouri River, principally in the vicinity of Fort Yates; and

WHEREAS, this vast area of the two Dakotas lying between existing crossings at Bismarck, North Dakota, and Mobridge, South Dakota, a distance of over one hundred ten river miles and nearly one hundred air miles, has now been bisected by the Oahe Reservoir, making ferry boat crossings impractical, resulting in near isolation of two areas which have rich agricultural and ranching lands; and

WHEREAS, the economic, social and recreational development of this immediate area and many miles beyond, would be greatly enhanced by the restoration and improvement of means of travel and communication in the vicinity of Fort Yates; and

WHEREAS, a modern bridge crossing of the Oahe Reservoir at Fort Yates is needed by those engaged in agricultural activities and would provide a stabilization of the area's economy by increasing the potential for industrial development, tourism and recreational usage of areas endowed with great natural beauty, which will otherwise lie dormant; and

WHEREAS, the providing of an adequate crossing at Fort Yates will eliminate the present isolation of the Standing Rock Indian Reservation and be an important contributing factor in the progress toward a program encompassing industrial, housing, educational, health and social development within such Reservation; and

WHEREAS, such crossing would be conducive to the generation of traffic from broad adjacent areas and encourage the development of interstate highway routes, including the historical Lewis and Clark Trail, which are presently deterred in part by the circuitous perimeter routes between Bismarck, North Dakota, and Mobridge, South Dakota;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the Fortieth Legislative Assembly of the State of North Dakota does hereby request and urge the United States Congress to authorize the construction of a highway bridge over the Oahe Reservoir at such place as it is deemed feasible near Fort Yates, North Dakota, and to appropriate the necessary funds to carry out such authorization; and

Be It Further Resolved, that copies of this resolution be forwarded by the Secretary of State to members of the United States Senate and House of Representatives from the States of North Dakota and South Dakota and to the Secretary of the Army and Secretary of the Interior.

Filed February 20, 1967.

SENATE CONCURRENT RESOLUTION "AA"

(Committee on Education)

UNIVERSITY BUILDINGS DESIGNED FOR HANDICAPPED

A concurrent resolution urging the State Board of Higher Education, the Commissioner of Higher Education, and the President of the University of North Dakota to consider the needs of the handicapped in the educational programs of the university and in planning additional building facilities.

WHEREAS, the University of North Dakota at Grand Forks presently has at its disposal the vocational rehabilitation agency and the rehabilitation unit at the medical center to attend to and provide for the physical and psychological needs of handicapped students; and

WHEREAS, handicapped students from the State of North Dakota attend colleges throughout the United States through funds provided by the vocational rehabilitation programs of North Dakota, and it would appear both economically desirable and in the interests of such students for the handicapped students to obtain their education in North Dakota; and

WHEREAS, a state must develop its richest resources, the citizens of such state, to reach its full potential, and an exceptional mind in a less than perfect body should not be denied development strictly because of facilities not particularly designed for handicapped persons or because of architectural barriers; and

WHEREAS, if the good mind in a damaged body is provided the advantages of an education at an institution of higher learning, such a superior and creative person will become an asset to the state and its citizens;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the State Board of Higher Education, and the Commissioner of Higher Education, and the President of the University of North Dakota be urged to provide for a program whereby classrooms and dormitory facilities be made available to handicapped students so that such students might have easy access to such classrooms and dormitories and that all efforts be made to schedule classes for handicapped students in rooms on the lower level of buildings or that methods for the instruction of such students, such as educational television and intercom systems, be used where possible; and

Be It Further Resolved, that in planning the construction of buildings for institutions of higher learning, consideration be given by the Board of Higher Education and the presidents of the various institutions of higher learning in this State for the provision of adequate facilities for the handicapped and the elimination of architectural barriers which normally inhibit the free movement of handicapped persons.

Filed March 3, 1967.

SENATE CONCURRENT RESOLUTION "BB"

(Meschke, Lips)

SAINT LAWRENCE SEAWAY TOLLS

A concurrent resolution urging the Congress of the United States not to increase the tariff or tolls on the Saint Lawrence Seaway.

WHEREAS, North Dakota is the number one cash grain state in the nation and is more sensitive to freight rate increases than states nearer to ports or centers of consumption; and

WHEREAS, North Dakota leads in the production of hard spring wheat, including durum, flaxseed and barley and these grains move through various ports of export, two of the most important being Duluth, Minnesota, and Superior, Wisconsin; and

WHEREAS, there have been tremendous increases in the volume of tonnage hauled on the Great Lakes with vast

increases in toll revenues, and increased tolls will tend to a decrease rather than an increase tonnage; and

WHEREAS, competition from the Saint Lawrence Seaway has helped to make other modes of transportation more reasonable in their charges that affect North Dakota; and

WHEREAS, there is every indication that with a little encouragement, even with the present toll charges, the Seaway would become self-supporting within a few years, and pay off all past due costs, such as interest; and

WHEREAS, no other major waterway in the United States has toll charges;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the Legislative Assembly of the State of North Dakota hereby respectfully requests the Congress of the United States to take the steps necessary to eliminate the toll charges on the Saint Lawrence Seaway completely, or to reduce the toll charges, but in no event to permit increased toll charges to jeopardize this vital transportation artery so necessary to the economic life of North Dakota.

Be It Further Resolved, that the Secretary of State forward copies of this resolution to the President of the United States, the Speaker of the United States House of Representatives, the President pro tem of the United States Senate and the appropriate committees of the United States House and the United States Senate.

Filed March 16, 1967.

SENATE CONCURRENT RESOLUTION "FF"

(Morgan, Luick)

ANTELOPE CREEK, A TRIBUTARY OF WILD RICE RIVER,
IN RED RIVER OF THE NORTH BASIN, NORTH DAKOTA

A concurrent resolution supporting needed channel improvements in and related to Antelope Creek west and north of Wahpeton, North Dakota, and urging the Corps of Engineers to expedite completion of its investigation and the formulation of a report thereon.

WHEREAS, serious and recurrent flood problems within and adjacent to the Antelope Creek watershed in Richland County, North Dakota, have increased to the point of seriously impairing the productive yield of many acres of prime agricultural land; and

WHEREAS, the St. Paul District Corps of United States Army Engineers has funds available for the current fiscal year to permit the initiation of an interim study of the flood and watershed problems along and in the area of the Antelope Creek, North Dakota; and

WHEREAS, the nature and scope of these problems related to the current study by the Corps of Engineers of the entire basin of the Red River of the North are most clearly understood by that agency;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the Fortieth Legislative Assembly of the State of North Dakota does hereby express its keen interest in and endorsement of the interim study undertaken and conducted by the St. Paul District of the United States Army Corps of Engineers, and urges that agency to complete its investigation as soon as possible in the hope that adequate flood protection may be made possible within the Antelope Creek area compatible with the aims of the Corps in the overall study of the Red River of the North basin; and

Be It Further Resolved that a copy of this resolution be transmitted by the Secretary of State to Colonel Richard J. Hesse, District Engineer, Corps of Engineers, 1217 United States Post Office and Custom House, St. Paul, Minnesota 55101; Brig. General Roy T. Dodge, North Central Division Engineer, Corps of Engineers, 536 South Clark Street, Chicago, Illinois 60605; Lt. General William F. Cassidy, Chief of Engineers, Department of the Army, Washington, D.C. 20060; United States Senators Milton R. Young and Quentin N. Burdick, United States Representatives Mark Andrews and Thomas S. Kleppe, Washington, D.C.; and Governor William L. Guy.

Filed March 16, 1967.

SENATE CONCURRENT RESOLUTION "GG"

(Torgerson, Lips, Meschke)

COMMENDATION OF JACK WILLIAMS

A concurrent resolution commending Mr. Jack Williams, Department Adjutant of the North Dakota American Legion, and making him an honorary member of the Fortieth Legislative Assembly, and declaring February 6, 1967, as American Legion Day in the State of North Dakota.

WHEREAS, Jack Williams, Department Adjutant of the North Dakota American Legion, has been hospitalized since October 14, 1966; and

WHEREAS, he was one of the founding fathers of the National American Legion which was founded in 1919 and is the only Department Adjutant in the American Legion who has continually served in such position since the founding of the American Legion; and

WHEREAS, he was instrumental in establishing the National American Legion Junior Baseball Program in 1925, instituted such program in the State of North Dakota in 1928, and became the North Dakota American Legion's first Department Athletic Officer, and for such services the city of Fargo in paying tribute to Mr. Williams has named a new athletic field "American Legion Jack Williams Stadium" in honor of Mr. Williams; and

WHEREAS, Mr. Williams has received many awards from national, state, and other organizations honoring and commending him for his dedicated service to citizens of the United States and this State, such as the Distinguished Service Medal of the State of North Dakota; and

WHEREAS, he has attended each legislative session of the State of North Dakota since 1919 except in 1953 when he was also ill;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That Mr. Jack Williams is hereby declared to be an honorary member of the Fortieth Legislative Assembly and that in recognition of his dedicated services to this State and in honor of The American Legion, it is hereby declared that February 6, 1967, is North Dakota American Legion Day; and

Be It Further Resolved, that an enrolled copy of this resolution be forwarded to Mr. Jack Williams by the Secretary of State:

Filed February 20, 1967.

SENATE CONCURRENT RESOLUTION "II"

(Hofstrand, Morgan, Rait, Kelly(15), Becker, Christensen,
(Pyle, Trenbeath, Schultz, Torgerson)

WETLAND ACQUISITION AND DEVELOPMENT OF
NATURAL RESOURCES

A concurrent resolution relating to wetland acquisition and the development of natural resources on privately owned lands.

WHEREAS, agriculture produces approximately eighty percent of North Dakota's new wealth; and

WHEREAS, legislation affecting agriculture has a major effect on the entire economy of the State; and

WHEREAS, all North Dakotans are concerned with and interested in the full development of its natural resources; and

WHEREAS, the optimum development of the natural resources of the State can best be accomplished when the needs of all segments of the State's economy are simultaneously considered as to the impact of one segment upon the other; and

WHEREAS, the purchasing or leasing of lands for wildlife conservation or propagation without full consideration of associated water and land development practices, to accomplish a maximum water and land management program, will not result in the most economical and beneficial utilization of the lands; and

WHEREAS, the alternative of utilizing available funds for the development of improved water and land management programs for wildlife conservation and propagation on privately owned lands, as against the purchasing and leasing of these lands, needs to be given full consideration; and

WHEREAS, the lack of drainage has resulted in serious economic losses to many communities and farmers, as a result of extensive and repeated flood damage to privately owned cropland, and has resulted in unnecessary delays in the maintenance, improvement, and renovation of existing drainageways; and

WHEREAS, perpetual government easements and government purchases threaten to permanently prevent present and future drainage needs;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

1. That the legislative assembly is opposed to any extension of the Federal program for the permanent acquisition of wetlands;

2. That the legislative assembly is opposed to any increase in the duck stamp fee for the purpose of increasing federal land acquisition;

3. That the present or future resources assigned to the wetlands program be utilized for the development of presently owned wetlands; and

4. That funds be allocated for the development of wildlife resources on privately owned lands along with the development of agricultural potentials on these same lands, as joint consideration for the utilizations of the natural resources for both purposes.

Be It Further Resolved, that the Legislature of the State of North Dakota urge that existing law be changed to allow the local, State, and Federal agencies to make surveys and designs on flood control projects, to allow a reasonable basis for consideration of the effects of the project on other resources, such as municipal, agricultural, wildlife, and recreation.

Be It Further Resolved, that the Secretary of State transmit copies of this resolution to the United States Department of the Interior, the United States Department of Agriculture, and to each member of the North Dakota congressional delegation.

Filed March 16, 1967.

SENATE CONCURRENT RESOLUTION "JJ"

(Hernett)

PREFILING AND PRINTING OF LEGISLATIVE BILLS

A concurrent resolution relating to prefiling and printing of bills in advance of sessions of the legislative assembly.

WHEREAS, as a result of laws passed by the Thirty-ninth Legislative Assembly providing for a Pre-session Organizational Orientation Conference and other provisions of law requiring a special subcommittee of the Legislative Research Committee to make all necessary arrangements for each session of the Legislature, it is now possible for the legislative assembly to be completely organized and be in full operation immediately upon the convening of the session; and

WHEREAS, many committees of the legislative assembly have available bills resulting from studies of the Legislative Research Committee and the Legislative Audit and Fiscal Review Committee as well as those resulting from the Governor's budget, which bills are printed in advance of the session, thereby permitting such committees to immediately begin work at a high level, but other committees may have few or no bills available for their consideration at the beginning of the session; and

WHEREAS, some committees not having bills for consideration at the beginning of the session may be flooded with bill assignments after the deadline for introduction of bills and have great difficulty in holding hearings and giving deliberative consideration to the large number of bills assigned to them; and

WHEREAS, many states have adopted a policy of prefilng and printing of bills requested by individual legislators in advance of the session in order, at least in part, to equalize the workload of the committees and better utilize their time;

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 authorized and directed in accordance with authority contained in chapter 54-35 and specifically section 54-35-11 to establish a system of prefilng and printing of bills in advance of each session of the legislative assembly and to encourage the drafting and filing of resolutions and bills and arrange for their printing in advance of the session to the maximum extent feasible.

Filed March 16, 1967.

SENATE CONCURRENT RESOLUTION "KK"

(Hernett, Decker, Rait)

LRC STUDY OF BUSINESS AND INDUSTRIAL
LEGISLATIVE INCENTIVES

A concurrent resolution directing the Legislative Research Committee to carry out a comprehensive study of business and industrial legislative incentives.

WHEREAS, the growth of business and industry in North Dakota has lagged significantly behind other states in the upper midwest; and

WHEREAS, it is recognized that business and industrial growth is directly dependent on a favorable legislative, economic, and social environment; and

WHEREAS, the Legislature has a responsibility to exercise its power in a manner which encourages economic growth, increased job opportunity, and higher per capita income; and

WHEREAS, the Greater North Dakota Association and the North Dakota Economic Development Commission in cooperation with the University of North Dakota have obtained and partially compiled information and data which could provide guidelines to legislation which would reflect in increased business and industrial growth;

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, with the cooperation of the Greater North Dakota Association, the North Dakota Economic Development Commission, and the University of North Dakota, conduct a comprehensive study of the need for business and industrial incentives in the State of North Dakota and which committee shall report its recommendations to the Forty-first Legislative Assembly, together with suitable legislation to carry out such recommendations.

Filed March 16, 1967.

SENATE CONCURRENT RESOLUTION "NN"

(Melland, Nething)
(Construction Appropriation)

PIPESTEM CREEK DAM AND RESERVOIR
JAMES RIVER, NORTH DAKOTA

A concurrent resolution endorsing and supporting the construction of the authorized Pipestem Creek Dam and Reservoir, and urging an appropriation therefor.

WHEREAS, the Congress by Public Law 89-298 authorized the construction of Pipestem Dam and Reservoir in the James River Basin, North Dakota, and has provided preconstruction planning funds therefor; and

WHEREAS, a portion of the city of Jamestown, North Dakota, was flooded by the Pipestem Creek in 1966, inundating thirty homes, badly damaging another thirty residences, and disrupting traffic and normal routine;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the Fortieth Legislation Assembly of the State of North Dakota does hereby reaffirm its endorsement and support of said project and most respectfully requests and urges the Congress to make funds available for initiating early construction thereon; and

Be It Further Resolved that a copy of this resolution be by the Secretary of State transmitted to each of the members of the North Dakota congressional delegation; chairman of the House and Senate Committees on Appropriations; Chief of Engineers, Department of the Army, Washington, D.C.; Division Engineer, Missouri River Division, Corps of Engineers, Omaha, Nebraska; District Engineer, Corps of Engineers, Omaha, Nebraska; and Area Engineer, Corps of Engineers, Riverdale, North Dakota.

Filed March 16, 1967.

SENATE CONCURRENT RESOLUTION "SS"

(Becker)

LRG STUDY OF PROPERTY TAX LIMITATIONS

A concurrent resolution directing the Legislative Research Committee to study the feasibility of providing property tax limitations based upon current market value and to study other areas relating to property taxes levied for the purpose of improving assessment practices.

WHEREAS, the political subdivisions of North Dakota are basically dependent upon real and personal property taxes for local revenue; and

WHEREAS, such dependency has resulted in the imposition of taxes at a high rate of the current market value of the property subject to ad valorem taxes; and

WHEREAS, the continued increase in the percentage of market value at which such property taxes are collected appears to extend and magnify the inequities that exist in the property tax system;

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 undertake a study to determine the need and advisability

of establishing a level of current market value that real or personal property taxes shall not exceed; and to carry out any additional studies deemed necessary to correct and improve real and personal property assessment and administration, and make its report and recommendations thereon to the Forty-first Legislative Assembly, together with any legislation required to carry out such recommendations.

Filed March 16, 1967.

SENATE CONCURRENT RESOLUTION "TT"

(Rait, Christensen, Decker, Becker, Wenstrom)

LRC STUDY OF TAXATION OF MINERAL RIGHTS

A concurrent resolution directing a study by the Legislative Research Committee of alternative methods of taxation of mineral rights.

WHEREAS, since the discovery of oil in North Dakota many mineral rights have been sold and are owned by persons not owning the surface rights to land; and

WHEREAS, through further sale and subdividing of interests, and through the inheritance of such mineral rights by numerous heirs, such severed mineral rights have been divided into minute fractional interests; and

WHEREAS, in many cases such mineral rights have for practical purposes been abandoned as worthless or not of sufficient value to be included in probate proceedings; and

WHEREAS, such severed mineral rights are not now assessed and taxed under laws relating to the ad valorem system of taxing property because of the costs of determining ownership and the costs of assessment, collection, and foreclosure, and thereby are not contributing to the costs of local government; and

WHEREAS, such dispersion of severed mineral rights can increase costs of abstract preparation; and

WHEREAS, it is in the public interest that title to abandoned severed mineral rights be acquired by the State or its political subdivisions in order that such property may be resold to surface right owners or other interested purchasers and thereby returned to the tax rolls;

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 authorized and directed to study alternative methods of taxing severed mineral rights and to make its report and recommendations, together with any legislation necessary to carry out such recommendations, to the Forty-first Legislative Assembly.

Filed March 16, 1967.

SENATE CONCURRENT RESOLUTION "VV"

(M. Kelly, Hofstrand, Beck, L. Larson)

COMMEMORATIVE CEREMONIES OF THE FORT TOTTEN
INDIAN RESERVATION AND FORT TOTTEN MILITARY POST

A concurrent resolution relating to commemorative ceremonies in regard to the establishment of the Fort Totten Indian Reservation and the Fort Totten Military Post.

WHEREAS, the year 1967 marks the centennial of the establishment of the Fort Totten Indian Reservation and of the Fort Totten Military Post; and

WHEREAS, the Fort Totten Military Post, which is under the supervision of the State Historical Society, is the best preserved military post of frontier vintage west of the Mississippi River and is a source of pride to all residents of the State of North Dakota and of interest to North Dakota visitors; and

WHEREAS, it is appropriated that suitable commemorative ceremonies be carried on during the year 1967 in recognition of such centennial;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the Fort Totten Tribal Council and the residents of the Fort Totten Indian Reservation are hereby congratulated upon the one hundredth anniversary of the establishment of the Reservation and are urged, with the cooperation of the State Historical Society, to conduct suitable commemorative ceremonies in the year 1967 in recognition of the centennial anniversary of the Fort Totten Indian Reservation and Fort Totten Military Post; and

Be It Further Resolved, that a copy of this resolution be forwarded by the Secretary of State to the Chairman of the Fort Totten Tribal Council.

Filed February 20, 1967.

SENATE CONCURRENT RESOLUTION "AAA"

(Lips)

LRC STUDY OF EMPLOYEES' RETIREMENT PROGRAM

A concurrent resolution directing the Legislative Research Committee to study the State Employees' Retirement Program and the management and investment practices of all public funds belonging to the State.

WHEREAS, there appears to be a lack of knowledge on the part of administrators and legislators in regard to the operations of the State Employees' Retirement Program; and

WHEREAS, the offices of the Attorney General and the Securities Commissioner have raised questions as to certain actions of the State Employees' Retirement Board; and

WHEREAS, many political subdivisions of the State of North Dakota have recently requested coverage under the State Employees' Retirement Program, which raises problems as to the extension of this program; and

WHEREAS, because of the restrictions on employer contributions, it is doubtful whether or not the program accomplishes one of its prime objectives, the recruitment and retention of skilled and professional personnel; and

WHEREAS, a determination as to the permanency and stability of the State Employees' Retirement Program is in the best interests of the State employees covered by this program; and

WHEREAS, the public funds of the State are presently managed and invested by a number of agencies of the State and in accordance with many separate and diverse laws; and

WHEREAS, there is a need to make a study of the management and investment practices concerning such funds;

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 purposes of determining whether or not reforms are needed within the program and whether or not it is feasible and advisable for this program to be expanded to include employees of the various political subdivisions of the State of North Dakota, and compiling any other useful information in regard to the retirement program, and to make a study of the management and investment practices of all

public funds of the State to determine whether better methods of management and investment practices can be formulated, and shall present such information and make its report and recommendations to the Forty-first Legislative Assembly, together with such legislation as may be necessary to carry out such recommendations.

Filed March 16, 1967.

SENATE CONCURRENT RESOLUTION "EEE"

(Longmire, Decker)

LRG STUDY OF GOVERNMENTAL IMMUNITY

A concurrent resolution relating to a study by the Legislative Research Committee of the feasibility of modifying the doctrine of governmental immunity.

WHEREAS, the doctrine of governmental immunity, which was adopted by almost all States of the nation, prohibits any injured citizen from making claims against or suing the State for wrongful acts or torts of its agents in carrying out their governmental duties unless the Legislature consents to such suit by law; and

WHEREAS, the State of North Dakota has never waived its immunity from suits for torts of its employees and agents, which often causes hardship to citizens who cannot obtain relief for their injuries and damages; and

WHEREAS, some States have modified the doctrine of governmental immunity by statute or court decision to permit suits against the State or its political subdivisions by injured citizens for damages resulting from the torts or wrongful acts of its agents or employees;

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 authorized and directed to conduct a study to determine the feasibility of the modification of the doctrine of governmental immunity for the purpose of providing redress to citizens injured or damaged through the torts or wrongful acts of employees and agents of the State and its political subdivisions and that the committee make its report and recommendations to the Forty-first Legislative Assembly accompanied by any suitable legislation necessary to carry out such recommendations.

Filed March 16, 1967.

SENATE CONCURRENT RESOLUTION "FFF"

(Melland, Nething, Litten)

LRC STUDY OF SCHOLARSHIPS AND LOAN FUNDS

A concurrent resolution directing the Legislative Research Committee to study the various State scholarship and loan funds administered by the State.

WHEREAS, the State of North Dakota has established numerous State loan and scholarship funds; and

WHEREAS, many students who are residents of the State of North Dakota attend private schools within the State; and

WHEREAS, it is questionable whether or not these students are eligible for many of the scholarships presently available under the State scholarship program; and

WHEREAS, the State scholarship programs might better serve the State and a greater number of students if they were consolidated;

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 determining the feasibility and advisability of consolidating the various State scholarship and loan funds, and reviewing other useful information in regard to the State scholarship and loan programs, and shall present such information and make its report and recommendations to the Forty-first Legislative Assembly, together with such legislation as may be necessary to carry out such recommendations.

Filed March 16, 1967.

SENATE CONCURRENT RESOLUTION "HHH"

(Committee on Appropriations)

LRC STUDY OF STATE FARMING OPERATIONS

A concurrent resolution directing the Legislative Research Committee to study the farming operations of the various institutions of the State of North Dakota.

WHEREAS, farming operations are carried on by several institutions of the State; and

WHEREAS, through coordination and integration of such operations through integrated management it appears more economical operations might occur or, in the alternative, such a study might indicate that farming operations should be discontinued; and

WHEREAS, there is no existing information upon which to make a well-informed judgment as to the merit of consolidating, changing, or terminating any of the farming operations presently carried on by the various institutions of the State of North Dakota;

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 the laws, procedures, management, operational practices, and any other area of the farming operations carried out by institutions of the State of North Dakota, and submit its report and recommendations, together with any necessary legislation, to the Forty-first Legislative Assembly.

Filed March 16, 1967.

SENATE CONCURRENT RESOLUTION "JJJ"

(Trenbeath, Pyle)

LRC STUDY OF ADMINISTRATION OF
AGRICULTURAL ACTIVITIES

A concurrent resolution authorizing and directing the Legislative Research Committee to study the feasibility of placing the administration of certain agricultural activities that are now administered by separate State boards, commissions and institutions under the jurisdiction of the State Department of Agriculture.

WHEREAS, the Constitution of this State establishes a Department of Agriculture which is maintained and staffed by the State; and

WHEREAS, there are many activities of the State in the field of agriculture, the majority of which have been placed under the jurisdiction of separate boards, agencies and institutions, including but not limited to the State Seed Department, Poultry Improvement Board, Livestock Sanitary Board, State Soil Conservation Committee; and

WHEREAS, it would appear that consideration should be given to the consolidation of many or all of these agricultural activities in the Department of Agriculture in order to carry

out the intent of the Constitution in regard to such department and to eliminate confusion, duplication, and to promote efficiency in such governmental activities;

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 the various activities of the State in the field of agriculture now being carried on by various departments, agencies, boards, and institutions and to determine the merits and feasibility of consolidating the administration of many or all of the State agricultural activities in the Department of Agriculture, and to make its report and recommendations to the Forty-first Legislative Assembly together with such legislation as may be necessary to carry out such recommendations.

Filed March 16, 1967.

SENATE CONCURRENT RESOLUTION "LLL"

(Nasset, Coughlin, Longmire, Larson(32))

ALLOCATION OF FEDERAL FUNDS DIRECTLY TO LOCAL SCHOOL DISTRICTS

A concurrent resolution directing the North Dakota Association of School Administrators to urge the Federal Government and the North Dakota congressional delegation to refrain from allocating school funds directly to local school districts.

WHEREAS, the Federal Government in allocating school funds categorizes and applies the funds to certain school programs without regard to the total specific needs of a State; and

WHEREAS, the Federal Government, in allocating such funds, makes them available or pays them directly to a local school district without any notice to the State's administrat- ing agency that it has done so; and

WHEREAS, the State also provides financial aid to such local districts, which aid is determined on a statewide basis, and attempts to take into consideration known federal funds made available to such districts; and

WHEREAS, the State aid program could become more equitable if all funds from whatever source were channeled through a central state agency, such agency being the Superintendent of Public Instruction in North Dakota; and

WHEREAS, the North Dakota Association of School Administrators also has an interest in the Federal Government's present practice of handling such funds;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the Federal Government is hereby urged that in administering its programs which allocate money to local school districts in any State that such administration be channeled through the office of the Superintendent of Public Instruction or the State Board of Public School Education, which office or State board is charged with the duty of administering such allocations to elementary and secondary schools, and that the North Dakota Association of School Administrators be urged to bring such practice to the attention of the Department of Federal Government responsible for such action and to the attention of our North Dakota congressional delegation;

Be It Further Resolved, that enrolled copies of this resolution be forwarded by the Secretary of State to the North Dakota congressional delegation and to the President of the North Dakota Association of School Administrators.

Filed March 16, 1967.

SENATE CONCURRENT RESOLUTION "NNN"

(Committee on Delayed Bills)

COMMENDATION OF RALPH BEEDE

A resolution honoring Ralph Beede for his outstanding services to his community, State, and nation, and especially to the North Dakota Legislative Assembly.

WHEREAS, the Honorable Ralph Beede of Elgin, North Dakota, who began his legislative service as a member of the House of Representatives in 1939 and retired from the legislative assembly in 1960, is generally recognized as one of the outstanding members of the North Dakota Legislature since statehood because of his integrity, almost unlimited knowledge of matters of concern to the body, the continuous assistance he rendered to his colleagues, and the utmost in respect and esteem in which he is held by the legislative assembly; and

WHEREAS, it is difficult to find a single program or action of major importance that was considered by the legislative

assembly during the period of Ralph Beede's service which does not reflect his major contribution and the imprint of his hand; and

WHEREAS, Ralph Beede has held all offices of importance and honor in the House of Representatives including the Chairmanship of major standing committees, Chairman of the Legislative Research Committee, service as Minority and Majority Floor Leader, and Speaker; and

WHEREAS, through interest in matters of national concern, service in the armed forces during time of war, and active participation in community affairs, together with his services in his professions of attorney at law and newspaper publisher, Ralph Beede has rendered a lifetime of service to his community, State, and nation; and

WHEREAS, it is the desire of the Fortieth Legislative Assembly on behalf of the citizens of the State of North Dakota to recognize the many and important contributions and service rendered by Ralph Beede;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the date of February twentieth shall be set as "Ralph Beede Day" and that at one thirty o'clock p.m. of such day the Senate and House of Representatives shall convene in joint session for the purpose of honoring Ralph Beede and presenting to him a suitable token of the appreciation of the citizens of the state and of the high esteem in which he is held by the North Dakota Legislative Assembly; and

Be It Further Resolved, that a copy of this resolution be forwarded by the Secretary of State to the Honorable Ralph Beede.

Filed February 24, 1967.

SENATE CONCURRENT RESOLUTION "PPP"
(Committee on Delayed Bills)

LRC STUDY OF STATE MERIT SYSTEM

A concurrent resolution directing the Legislative Research Committee to study and review the feasibility of adopting a merit system for all State employees.

WHEREAS, some of the State employees are now employed under a merit system which encourages the employment and retention of competent and qualified personnel; and

WHEREAS, some of the primary purposes of the merit system are to provide uniform salaries and salary increases, and uniform fringe benefits for all State employees; and

WHEREAS, many State employees are urging the serious consideration by the Legislature of the adoption of the merit system;

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 undertake a study and review of the feasibility of adopting a merit system plan for all State employees; and

Be It Further Resolved, that the Legislative Research Committee, in conducting such study and review, may seek the assistance and advice of any State agency, institution, or department, and all such State agencies, institutions, and departments are hereby directed to cooperate in providing such assistance and advice requested; and

Be It Further Resolved, that the Legislative Research Committee shall make its report and recommendations resulting from such study and review, together with any legislation necessary to implement such recommendations, to the Forty-first Legislative Assembly.

Filed March 16, 1967.

SENATE CONCURRENT RESOLUTION "RRR"
(Committee on Delayed Bills)

DISPOSAL OF STATEHOOD ANNIVERSARY FUNDS

A concurrent resolution establishing an interim Legislative Committee to act as conservators of the funds now held by the North Dakota Statehood Anniversary Committee and dissolving such Statehood Committee.

WHEREAS, the North Dakota Statehood Anniversary Committee was continued during the 1965-1967 biennium pursuant to Senate Concurrent Resolution "H-H" of the Thirty-ninth Legislative Assembly for the purpose of obtaining and placing portraits of Rough Rider Award recipients; and

WHEREAS, such committee has completed this project and there remains nearly six thousand dollars in the treasury of such committee; and

WHEREAS, the committee has asked the Fortieth Legislative Assembly for a directive concerning such funds;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That a committee, consisting of two members of the House of Representatives, appointed by the Speaker, and one member of the Senate, appointed by the President of the Senate, shall, after an accounting of such funds, receive them from the North Dakota Statehood Anniversary Committee and cause them to be deposited in a place of safekeeping to await the Forty-first Legislative Assembly's directive regarding the disposal of such funds; and

Be It Further Resolved, that upon completion of the transfer of such funds the North Dakota Statehood Anniversary Committee be dissolved.

Filed March 16, 1967.

SENATE CONCURRENT RESOLUTION "SSS"
(Committee on Delayed Bills)

ACCEPTANCE OF TELEVISION TRANSMITTING ANTENNAS

A concurrent resolution relating to the acceptance by the State of television transmitting antennas.

WHEREAS, the State of North Dakota has accepted as a gift a television transmitting antenna and transmitting equipment, and other television transmitting antennas may be offered to the State as a gift; and

WHEREAS, the acceptance of ownership of such antennas by the State has the effect of removing such property from the property tax rolls, thereby reducing the tax revenue of local governments; and

WHEREAS, the acceptance of ownership of such antennas commits the State to long-term obligations for maintenance and operation of such equipment and property without the prior approval of the legislative assembly; and

WHEREAS, it is possible that a study of the technical and economic aspects of television transmission facilities might indicate that it is preferable to make use of privately owned wire or cable transmission facilities for educational television purposes;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the departments, agencies, and institutions of the State are hereby directed to refrain from accepting the transfer by gift or otherwise of television antennas unless such acceptance and transfer have been specifically approved by the legislative assembly.

Filed March 16, 1967.

SENATE MEMORIAL RESOLUTIONS

SENATE MEMORIAL RESOLUTION No. 1

(Lips)

MRS. ANNA WENSTROM

A memorial resolution extending sympathy and condolence to Senator Frank Wenstrom upon the death of his mother.

WHEREAS, God in His infinite wisdom has seen fit to summon from our midst Mrs. Anna Wenstrom, the mother of our colleague, Senator Frank Wenstrom; and

WHEREAS, Senator Frank 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 Senator Frank Wenstrom and all members of his family our sincere sympathy and condolence in this their time of sorrow; and

Be It Further Resolved, that duly enrolled copies of this resolution be forwarded by the Secretary of State to Senator Frank Wenstrom and members of his family.

Filed January 13, 1967.

SENATE MEMORIAL RESOLUTION No. 2

(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-ninth Legislative Assembly, God in His wisdom has seen fit to summon to eternal rest His servants and our former colleagues:

JOSEPH B. BRIDSTON, who served in the Twenty-sixth to the Thirty-fourth Legislative Assemblies, from the seventh district, died September 26, 1965.

LEE F. BROOKS, who served in the Thirty-fifth, Thirty-seventh, and Thirty-eighth Legislative Assemblies, from the ninth legislative district, died April 13, 1965.

JOHN CONRAD, who served in the Twenty-ninth and Thirtieth Legislative Assemblies, from the eleventh legislative district, died August 18, 1965.

GILBERT W. HAGGART, who served in the Fifteenth and Sixteenth Legislative Assemblies, from the ninth legislative district, died January 7, 1967.

ANTON LARSON, who served in the Twenty-second and Twenty-third Legislative Assemblies, from the twenty-sixth legislative district, died November 25, 1965.

KENNETH K. PYLE, who served in the Thirtieth to the Thirty-third Legislative Assemblies, from the tenth legislative district, died July 10, 1965.

WHEREAS, today, we as members of the Senate of the Fortieth 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 Fortieth 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 March 1, 1967.

SENATE MEMORIAL RESOLUTION No. 3

(Lips)

MR. EMANUEL KAUTZMANN

A memorial resolution extending sympathy and condolence to Senator Emil E. Kautzmann upon the death of his father.

WHEREAS, God in His infinite wisdom has seen fit to summon from our midst Mr. Emanuel Kautzmann, the father of our colleague, Senator Emil E. Kautzmann; and

WHEREAS, Senator Emil E. Kautzmann 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 deepest sorrow and extend to Senator Emil E. Kautzmann 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 Senator Emil E. Kautzmann and members of his family.

Filed March 16, 1967.

REFERENDUM NOTE

Referendum petitions have been filed against the following Acts of the 1967 Legislative Assembly:

House Bill		Chapter	Page
No. 782	Corporations allowed to carry on farming operations	97	154
Senate Bill			
No. 232	Conflict of interest repeal.....	380	934